

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

**DOD USE OF ECONOMY ACT ORDERS ISSUED TO A
CENTRAL INTELLIGENCE AGENCY COMPONENT**

Report No. 96-018

October 27, 1995

Department of Defense

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Acronyms

AFB
CIA
DISA
NPIC

Air Force Base
Central Intelligence Agency
Defense Information Systems Agency
National Photographic Interpretation Center



INSPECTOR GENERAL
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October 27, 1995

MEMORANDUM FOR DISTRIBUTION

SUBJECT: DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component (Report No. 96-018)

We are providing this audit report for review and comment. The audit results indicate a need to stop the use of Economy Act orders by DoD Components to purchase computer equipment using the National Photographic Interpretation Center contract. We considered management comments on a draft of this report in preparing the final report.

DoD Directive 7650.3 requires that all recommendations and issues regarding potential monetary benefits be resolved promptly. Although the comments we received were generally responsive, some either did not meet the intent of the recommendation or did not provide specific corrective actions. Additional comments are requested from the Under Secretary of Defense for Acquisition and Technology; the Army; the Navy; Commander in Chief, U.S. European Command; Commander in Chief, U.S. Pacific Command; Commander in Chief, U.S. Atlantic Command; Commander in Chief, U.S. Special Operations Command; Director, Defense Information Systems Agency; and Director, Defense Logistics Agency.

Also, as a result of the management comments received, we redirected draft Recommendations 1d. and 1e. to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) and renumbered them as Recommendations 2.a. and 2.b. We request that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) provide comments on the final report. Because the Commander in Chief, U.S. Strategic Command; Director, Defense Intelligence Agency; Director, Defense Nuclear Agency; and the Director, Joint Staff did not comment on the draft of this report, we request comments in response to the final report. See the Management Comments Required section at the end of Part I for the specific requirements for the comments to be provided by November 27, 1995.

If you have any questions on this audit, please contact Ms. Mary Lu Ugone, Audit Program Director, at (703) 604-9529 (DSN 664-9529) or Ms. Cecelia A. Miggins, Audit Project Manager, at (703) 604-9542 (DSN 664-9542). See Appendix H for the report distribution. The audit team members are listed inside the back cover.

Robert J. Lieberman
Assistant Inspector General
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Office of the Inspector General, DoD

Report No. 96-018
(Project No. 5RE-0049)

October 27, 1995

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Executive Summary

Introduction. United States Code, title 31, section 1535, "Agency Agreements," (hereafter referred to as the Economy Act) requires DoD Components to ensure that an Economy Act order (an order made by a DoD Component to another Federal agency for goods or services) is in the best interest of DoD. Also, the Defense Authorization Act for FY 1994, section 844, requires the Secretary of Defense to establish regulations governing DoD use of Economy Act orders administered by Federal agencies and specifically prohibits the supported agency from paying the receiving agency any fee that exceeds the actual or estimated cost of administering or entering into the contract. Further, Secretary of Defense guidance requires determining whether the goods or services can be obtained directly from a private source as conveniently and cost-effectively as through the agency administering the Economy Act order. We issued a draft of this report as a quick-reaction report to alert DoD management to stop issuing Economy Act orders against a National Photographic Interpretation Center (NPIC) contract because the computer equipment purchased under the Economy Act orders may not be the best value for DoD.

Objectives. The announced audit objective was to evaluate Military Department and Defense agency (hereafter referred to as the DoD Components) use of Economy Act orders to obtain computer equipment through NPIC. We obtained all information concerning NPIC actions and documentation, including copies of the basic contracts and selected DoD Economy Act orders, through the office of the Inspector General, Central Intelligence Agency (CIA). Specifically, we reviewed DoD Component Economy Act orders for compliance with laws and regulations. We will issue a separate report that discusses management controls over Economy Act orders at major DoD Components.

Audit Results. The DoD has no assurance that Economy Act orders placed on the NPIC contracts represent a "best value" for DoD. Since 1988, 192 subordinate components within 17 major DoD Components issued 1,177 Economy Act orders for computer equipment, costing about \$365.3 million, through two unclassified NPIC contracts with Sun Microsystems Federal, Incorporated (Sun Microsystems). Based on data made available by the Office of the Inspector General, CIA, we estimated that \$14.7 million related to the volume of DoD orders accrued to the NPIC, not to the DoD. Those monetary benefits resulted from equipment allowances and prompt payment discounts given to NPIC by the vendor. Given the volume of DoD computer equipment purchases, the DoD Components should not have to rely on the CIA to negotiate favorable pricing.

There continue to be material management control weaknesses in the DoD use of Economy Act orders. Recommendations in the report, if implemented, will ensure that DoD obtains the best value in computer equipment purchases and complies with statutory and regulatory requirements. We could not quantify the potential monetary benefits associated with stopping the issuance of Economy Act orders to NPIC and

canceling unfilled Economy Act orders. However, DoD should obtain from NPIC \$14.7 million, which NPIC received in contractor rebates and discounted payments as a result of DoD purchases. See Part I for a discussion of the audit results and Appendix G for a summary of potential benefits resulting from the audit.

Summary of Recommendations. We recommend that the DoD Components stop issuing Economy Act orders on the 1995 contract with the NPIC; cancel any unfilled orders related to the 1995 contract and the 1987 contract which was modified through 1994; and review the performance of and take appropriate actions against DoD officials who exceeded their authority. Also, we recommend that DoD establish aggressive milestones for completion of a DoD instruction that incorporates the requirements in the February 8, 1994, Secretary of Defense memorandum, "Use of Orders Under the Economy Act," and obtain a refund from NPIC in an amount equal to the value of computer equipment NPIC received as a rebate for the Economy Act orders and to the discount for prompt payment NPIC received from Sun Microsystems.

Management Comments. The DoD Components who responded to the draft report generally concurred with the recommendations to stop issuing and cancel unfilled Economy Act orders. The Army, Navy, and Defense Mapping Agency did not agree that the orders placed directly with Sun Microsystems, under the memorandum of understanding with NPIC, were subject to the provisions of the Economy Act requirements. The Army stated that for an order to be an Economy Act order, it must be placed with the receiving agency and that the prime consideration is whether DoD transferred funds to NPIC not whether the contract is an NPIC contract. The Navy stated that it believed the orders were not subject to the Economy Act because they were placed by a Navy contracting officer directly under the NPIC contract. The Defense Mapping Agency disagreed that the direct orders were Economy Act orders because NPIC delegated the ordering, funding, and payment functions and the memorandum of understanding did not include service fees for contracting or acquisition costs.

The DoD Components, with the exception of the Army, generally agreed that a review should be conducted of the performance of officials who did not comply with the Economy Act. The Defense Logistics Agency partially concurred, stating that policy is in place, but did not state that a review of performance would be performed. The Army nonconcurred, stating that action could not be taken without the identification of specific violations by Army organizations and officials.

The DoD Components generally agreed that a refund should be obtained from NPIC for the rebates and discounts NPIC received from Sun Microsystems. However, the DoD Components generally agreed that a single DoD office would be in a better position to negotiate with NPIC for all of DoD.

The Under Secretary of Defense for Acquisition and Technology reissued DoD Instruction 4000.19, "Interservice and Intragovernmental Support," effective October 1, 1995. The Defense Information Systems Agency concurred with the recommendation that it should determine whether an existing or new DoD contract with Sun Microsystems would be the best value for DoD. In fact, the U.S. Atlantic Command indicated that it uses a contract that the Defense Intelligence Agency has with "SUN" that has pricing equal to the NPIC contract with Sun Microsystems.

The U.S. Strategic Command, Defense Intelligence Agency, Defense Nuclear Agency, and Joint Staff did not provide comments on the draft report. Although not required to respond, the NPIC nonconcurred with the finding, stating that the report omitted the conclusion of the Inspector General, CIA, that contract prices and terms did appear

advantageous when compared to other Government contracts. See Part I for a summary of management comments and Part III for the complete texts of management comments.

Audit Response. We consider management comments on the recommendations to stop issuing and cancel all unfilled Economy Act orders to be generally responsive. As a result of our audit, on September 11, 1995, the Assistant Secretary of the Defense (Command, Control, Communications and Intelligence) issued a memorandum, "DoD Orders Against National Photographic Interpretation Center (NPIC) Contract with Sun Microsystems," which provides the conditions for the DoD Component continued use of the NPIC contract with Sun Microsystems. We consider the conditions set forth in the memorandum to meet the intent of the recommendations. The conditions include compliance with DoD Instruction 4000.19, "Interservice and Intragovernmental Support," August 9, 1995. The Instruction was reissued and was to include the policy statement from the Secretary of Defense memorandum, "Use of Orders Under the Economy Act," February 8, 1994.

The Army and Defense Logistics Agency comments were partially responsive to the recommendation to review the performance of officials' use of Economy Act orders. Although the audit did not identify the specific organizations and officials who violated the Economy Act, the audit did identify DoD Components that issued Economy Act orders after statutory and regulatory guidance was provided.

We do not agree with the Army, Navy, and Defense Mapping Agency position that orders placed directly with Sun Microsystems, under the memorandum of understanding between the DoD Component and NPIC, are not subject to Economy Act requirements. Regardless of the way the transactions were structured, the underlying authority for DoD purchases remains the NPIC contract with Sun Microsystems.

The comments from the Under Secretary of Defense for Acquisition and Technology were partially responsive. The comments do not provide the implementation plan for establishing a system to track Economy Act orders and associated dollars.

Also, the Defense Information Systems Agency did not specify a plan of action for determining whether an existing or new contract with Sun Microsystems would be the best value for DoD.

See Part I for a detailed audit response to management comments.

As a result of management comments to the recommendation for obtaining a refund for rebates, we redirected and renumbered recommendations to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). Based on management comments, we agreed to assist the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) in determining the refund due to the DoD Components. We request that the Under Secretary of Defense for Acquisition and Technology; Assistant Secretary of Defense (Command, Control, Communications and Intelligence); the Army; the Navy; European Command; Pacific Command; Atlantic Command; Special Operations Command; Strategic Command; Defense Intelligence Agency; Defense Information Systems Agency; Defense Logistics Agency; Defense Nuclear Agency; and the Director, Joint Staff, provide comments on the final report by November 27, 1995.

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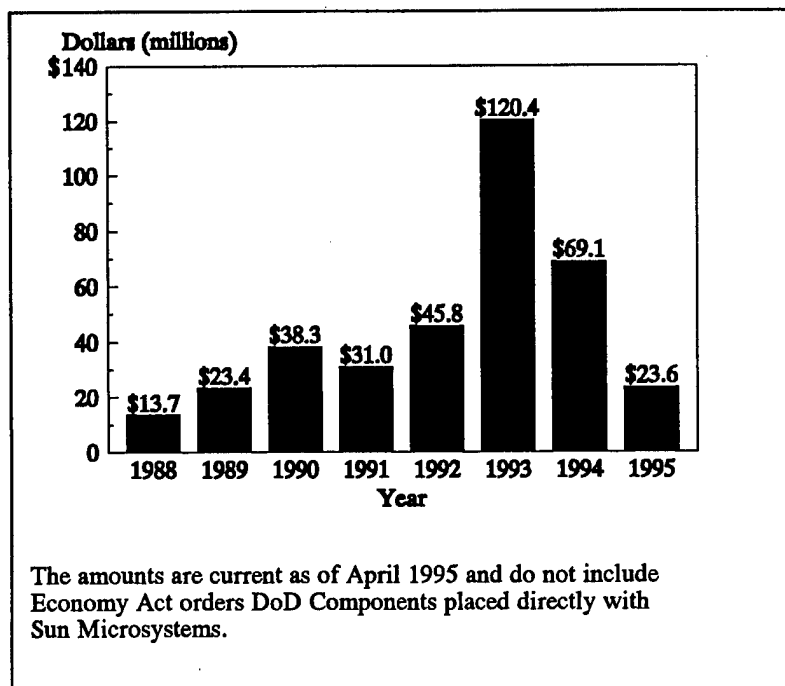
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Part I - Audit Results

Audit Background

Since 1988, at least 192 subordinate components within 17 major DoD Military Departments and Defense agencies (hereafter referred to as the DoD Components) placed more than 1,177 Economy Act orders,¹ for Sun model computer equipment, valued at about \$365.3 million (see the Figure below), against two sole-source contracts² that the National Photographic Interpretation Center (NPIC), a component of the Central Intelligence Agency (CIA), has with Sun Microsystems Federal, Incorporated (Sun Microsystems)



Value of DoD Economy Act Orders Placed Through NPIC

Also, 23 DoD Components have memorandums of understanding with NPIC and issue Economy Act orders directly to Sun Microsystems with the NPIC contract as the basic procurement vehicle. We do not know the total number or total value of the Economy Act orders DoD Components have placed directly with Sun Microsystems. We obtained all information concerning NPIC actions and documentation, including copies of the basic contract and selected DoD Economy Act orders, through the Office of the Inspector General, CIA.

¹An Economy Act order is an agency order for goods and services that another agency can provide or can furnish by contract.

²A sole-source contract is a contract that was negotiated with only one source rather than competed. The NPIC did attempt to compete the contract.

Personnel in the Office of the Inspector General, CIA, stated that the information on the Economy Act orders placed directly with Sun Microsystems was not available.

Contract 87-K362300-000 was for 1987 through 1994, and contract 95-K216600-000 began October 1, 1994, for 1 year with 4 option years. See Appendix C for a list of the Economy Act orders placed against those contracts through NPIC and Appendix D for the 23 DoD Components that have memorandums of understanding to place orders against those contracts directly with Sun Microsystems.

The Inspector General, DoD, has issued 11 reports on matters related to Economy Act orders, prompting DoD Components to establish supplemental guidance for using Economy Act orders. The supplemental guidance will be summarized and discussed in a separate report on management controls over Economy Act orders. United States Code, title 31, section 1535, "Agency Agreements," (hereafter referred to as the Economy Act); Public Law 103-160, "Defense Authorization Act for FY 1994," November 30, 1993; and Federal Acquisition Regulation subpart 17.5, "Interagency Acquisitions Under the Economy Act," provide the primary statutory and regulatory requirements for placing Economy Act orders.

Statutory, Regulatory, and DoD Requirements Related to Economy Act Orders

Statutory and Regulatory Requirements. The Economy Act requires DoD Components to ensure that an Economy Act order is the best value for the DoD. The Economy Act provides specific terms under which DoD Components may place an Economy Act order. Because DoD Components did not previously comply with the requirements of the Economy Act, the Defense Authorization Act for FY 1994 contained additional statutory provisions that further regulate Economy Act orders. Specifically, the Defense Authorization Act for FY 1994, section 844, "DoD Purchases Through Other Agencies," requires the Secretary of Defense to establish regulations governing Economy Act orders, and more important, prohibits the supported agency from paying the receiving agency a fee that exceeds the actual or estimated cost of entering into or administering a contract for goods or services.

DoD Requirements. On February 8, 1994, the Secretary of Defense issued a memorandum, "Use of Orders Under the Economy Act." Specifically, the Secretary of Defense memorandum states:

To implement this policy statement and to comply with section 844 of the National Defense Authorizations for Fiscal Year 1994, I am directing that the following actions be accomplished within 90 days:

Audit Results

The Comptroller shall issue appropriate accounting and finance guidance requiring that documented determination and finding approvals be provided to accounting officers prior to committing funds on Economy Act orders.

The Under Secretary of Defense for Acquisition and Technology (USD(A&T)) shall reissue DoDI [DoD Instruction] 4000.19, "Interservice, Interdepartmental, and Interagency Support," to incorporate the policy statement and approval requirements as delineated above and in section 844. The DoDI shall also establish the requirement for a tracking system to report, on an annual basis to the USD(A&T), the number and associated dollars of Economy Act orders released outside of DoD.

The USD(A&T) shall modify the Defense Federal Acquisition Regulation Supplement to define the role of the contracting officer in the approval process for Economy Act orders.

On April 21, 1994, the Under Secretary of Defense (Comptroller) issued a memorandum, "Accounting Officer Responsibility for Economy Act Orders," which states:

DoD accounting officers shall be responsible for ensuring that a documented "determination and finding" statement is provided prior to committing and obligating funds on Economy Act orders placed outside the Department. The head of the requesting agency or designee is responsible for the contents, approval, or accuracy of the documented determination and finding statement. This new policy is effective immediately, and will be included in Volume 11 of the "DoD Financial Management Regulation" (DoD 7000.14-R).

On April 25, 1994, the Director, Defense Procurement, issued a memorandum, "Economy Act," which states:

We have revised Subpart 217.5 of the Defense Federal Acquisition Regulation Supplement (DFARS) to define the role of the contracting officer in the approval process for Economy Act orders. Contracting officers should provide advice, if requested, to assist requirements personnel in the preparation of written determinations to support Economy Act orders.

In addition, the DoD contracting officers are required to follow the provisions of Federal Acquisition Regulation subpart 17.5 and Defense Federal Acquisition Regulation Supplement subpart 217.5, "Interagency Acquisitions Under the Economy Act Requirements." The NPIC is exempt from the provisions of United States Code, title 10, chapter 137; the Federal Property and Administrative Services Act, Title III; and the Federal Acquisition Regulation. Although NPIC is exempt from many statutory and regulatory acquisition requirements, we were informed by personnel from the Office of the Inspector General, CIA, that it is agency policy to follow the Federal Acquisition Regulation as much as possible.

Audit Objectives

The announced objective of the audit was to evaluate the DoD Component use of Economy Act orders to obtain computer equipment through the NPIC. We reviewed Economy Act orders for compliance with laws and regulations. We will issue a separate report on management control programs pertaining to Economy Act orders for the major DoD Components. Specifically, we reviewed the DoD Component Economy Act orders for compliance with laws and regulations. Appendix A discusses the audit scope and methodology. Appendix B summarizes the prior audit coverage related to Economy Act orders.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Since 1988, at least 192 subordinate components within 17 major DoD Components issued 1,177 Economy Act orders for Sun model computer equipment costing about \$365.3 million on two unclassified NPIC contracts with Sun Microsystems. The Economy Act orders may not represent the best value for DoD.

The DoD Components may not have received the best value by ordering through NPIC for the following reasons.

- o The DoD Components did not have access to and complete knowledge of the terms and conditions of the NPIC contracts in order to make best-value decisions in purchasing computer equipment. Contract terms and conditions included provisions for rebates, in the form of computer equipment and discounts for prompt payment, that NPIC received based on the value of DoD Economy Act orders.

- o The DoD Components did not use DoD contracting expertise to place a direct contract with Sun Microsystems or to explore existing DoD contracting alternatives.

- o The DoD Components did not follow statutory and regulatory requirements for issuing Economy Act orders.

As a result, since 1988, NPIC received \$14.7 million (at least \$11 million in rebates of computer equipment and as much as \$3.7 million in discounts for prompt payments) from Sun Microsystems, while the DoD customers whose orders made those benefits possible did not receive them.

NPIC Contract Terms and Conditions

Determining the Best Value for the DoD. The 17 major DoD Components could not determine whether the prices for computer equipment were the best value for the DoD. Although a determination for best value is required by the Economy Act, the DoD Components did not have access to the NPIC contracts, contract prices for the computer equipment, the NPIC pricing methodology, or specific contract provisions that could have affected the determination for best value. Instead, the DoD Components relied on information provided by NPIC contracting personnel. Further, rather than relying on DoD contracting officers for contracting approvals for issuing Economy Act orders, DoD Components relied on their program office personnel who initiated the Economy Act orders.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Because NPIC did not give copies of contracts 87-K362300-000 and 95-K216600-000 to DoD Components, they were not aware of the contract provisions that allowed Sun Microsystems to give NPIC rebates based on the value of Economy Act orders placed by DoD Components. In April 1995, NPIC provided the Defense Information Systems Agency (DISA) a partial copy of contract 95-K216600-000. The NPIC had deleted the contract provision regarding the rebate for the contract allowance from the contract documentation given to DISA. The DoD contracting officer stated that he asked the NPIC contracting officer about the missing portion of the contract and was told that the deleted information was not important and would not have any effect on the Economy Act orders issued by DISA.

The 1987 contract contained a provision for an annual credit, and the 1995 contract contained a provision for a contract allowance. The provisions provided for a rebate in the form of computer equipment (FY 1987 contract) or Sun Microsystems hardware, including spare parts and software (FY 1995 contract).

NPIC Contract Allowances for FY 1994 and Preceding Years. The provision for annual credit in contract 87-K362300-000 states:

Annual Credit.

After placing orders totaling at \$20,000,000 (list price) for delivery during any annual period, the Government will obtain an equipment credit for its own use during the following annual period. This credit is to be in the form of equipment received at no cost to the Government, and may not be a cash credit. The percentage of credit is determined as follows:

<u>Annual Level of Procurements</u>	<u>Annual Credit</u>
\$20,000,000 - \$ 30,000,000	1%
30,000,000 - 50,000,000	2%
50,000,000 - 70,000,000	3%
70,000,000 - 100,000,000	4%

Contract Allowance for FY 1995. The provision on contract allowances in contract 95-K216600-000 states:

Sun Fed's [Sun Microsystems] Contract Allowance (CA) is offered to the National Photographic Interpretation Center (NPIC) for establishing mutually agreed upon delegated direct ordering locations and for supporting external use of contract 95-K-216600-000. The CA will be allocated in three increments of \$500,000.00 each for this government fiscal year (1995) occurring December, March, and June. The CA is not a cash award and is offered only for the procurement of Sun hardware, including spare parts, and software. The CA will not apply to services, training, or repairs. The accumulated 1995 CA must be expended before the end of government fiscal year 1995 and is not to be carried over to fiscal year 1996.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Contract Provision for Discounted Payments. The DoD Components were also unaware of an additional contract provision that provided for discounted payments.

An additional one percent (1%) discount will be allowed when payment is made twenty (20) days from receipt of invoice or date of acceptance, whichever is later.

Appropriations Law Related to Augmenting Agency Funds. The General Accounting Office, "Principles of Federal Appropriations Law," volume II, chapter 6, "Availability of Appropriations: Amount," section E, "Augmentation of Appropriations," states that an agency cannot use funds from outside sources to augment its funds without specific statutory authority. Any organization augmenting its funds without congressional authority is acting in contravention of the law. Specifically, Principles of Federal Appropriations Law, volume II, chapter 6, section E, states:

The prohibition against augmentation is a corollary of the separation of powers doctrine. When Congress makes an appropriation, it is also establishing an authorized program level. In other words, it is telling the agency that it cannot operate beyond the level that it can finance under its appropriation. . . . There is no statute which, in those precise terms, prohibits the augmentation of appropriated funds. The concept does nevertheless have an adequate statutory basis

In addition, United States Code, title 31, section 1301, "Application," states:

- (a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.
- (b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation.

Augmenting NPIC Funds. The DoD Component Economy Act orders had the effect of increasing NPIC appropriations, because DoD payments to NPIC resulted in at least \$11 million in computer equipment rebates to NPIC and as much as \$3.7 million in discounts to NPIC for prompt payments to Sun Microsystems.

Credits and Allowances. The effect of the contract provisions for an annual credit or contract allowance was that the DoD paid more than necessary for equipment purchased under Economy Act orders. Based on the information personnel in the Office of the Inspector General, CIA, provided on the Economy Act orders, DoD paid at least \$11 million more than necessary for computer equipment. The \$11 million is the estimated amount of computer equipment rebates the contractor provided to NPIC as a result of DoD purchases. The NPIC used the DoD Component Economy Act orders to qualify for rebates in the form of computer equipment. The NPIC did not, in turn, give those rebates to DoD. Consequently, DoD augmented NPIC funds by subsidizing NPIC computer equipment purchases via the rebates provided by the contract provisions.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Prompt Payment Discounts. An additional contract provision allowed NPIC to receive a 1-percent discount from Sun Microsystems for prompt payments. That provision also had the effect of causing DoD to overpay for computer equipment and to ultimately augment NPIC funds. DoD Components did not receive invoices from NPIC that cited the discount terms. As stated earlier, contracting officers did not have access to the contracts. By applying the 1-percent discount to the \$365.3 million in Economy Act orders, NPIC would have saved as much as \$3.7 million in payments to Sun Microsystems if NPIC paid the invoices within required time frames. However, NPIC did not pass discounts on to the DoD. Consequently, DoD augmented NPIC funds via the discount terms of the contract provision.

Defense Authorization Act for FY 1994. Section 844(b)(4) of the Defense Authorization Act for FY 1994 prohibits DoD from paying any fee that exceeds the actual or estimated cost of entering into and administering the contract under which the order is filled. DoD Component personnel stated that NPIC personnel told the DoD Components that they would pay only the price that Sun Microsystems quoted for the computer equipment with no additional fee. In response to the NPIC statement, the DoD Components believed that the price quoted by Sun Microsystems was the total cost of the computer equipment. Because DoD Components did not have access to key contract information, they were unaware of the rebates and discounts that Sun Microsystems gave to NPIC and, therefore, the DoD Components were unaware of the net cost of the computer equipment. If the DoD Components had been aware of the rebates and discounts, the DoD Components would have had the opportunity to negotiate a contract with similar terms and conditions and would have taken advantage of the rebates and discounts available to NPIC.

DoD Contracting Expertise

Expertise in Contracting with Sun Microsystems. The February 8, 1994, Secretary of Defense memorandum provides that DoD organizations can make purchases through a non-DoD agency only if the agency filling the order is better qualified to enter into or administer the contract because that contracting capability or expertise is not available within DoD. The DoD has clearly demonstrated its expertise in contracting for computer equipment. Using direct contracts with Sun Microsystems since 1988, DoD organizations have awarded more than 1,350 contracting actions valued at \$193 million for computer equipment.

DISA Information Management Procurement Responsibilities. The DISA is responsible for planning, developing, and supporting both the command, control, and communications and the business information management requirements for DoD. That mission includes planning and managing procurement support and modernizing the information infrastructure and products to meet all DoD requirements. To meet that mission, DISA is responsible for establishing and maintaining short- and long-term plans to provide logistics and procurement support to all DoD organizations.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

The DISA has not developed a plan to procure Sun model computer equipment to take advantage of the economies of scale that NPIC has with its Sun Microsystems contracts.

Consequently, the DoD Components have:

- o lost control of the use of Economy Act orders used to fulfill DoD requirements for Sun model computer equipment,
- o lost the use of funds that were in the form of rebates to NPIC, and
- o put DoD management in the position of having to explain why DoD Components continue to misuse Economy Act orders after Congress and the Secretary of Defense established additional guidance to stop the misuse of Economy Act orders.

Other Contracting Alternatives. DoD has existing contracts with Sun Microsystems and could explore using those contracts instead of placing Economy Act orders outside the DoD. Those contracts may contain technology upgrades that are not available on the NPIC contract. Additionally, as the DoD provider of information processing capabilities, DISA could explore obtaining terms and conditions that are as beneficial as the NPIC contract in negotiating a new DoD contract. Further, because the NPIC contract was not competitively awarded to Sun Microsystems, DoD has the potential for greater monetary benefits if the manufacturers of comparable equipment are allowed to compete for future contract awards. Given the anticipated and sizeable future investment (as evidenced by the 23 memorandums of understanding [see Appendix D] between DoD Components and NPIC to purchase equipment), DoD needs to consider comparable alternatives for Sun model computer equipment.

Satisfying Statutory and Regulatory Requirements

Using the information personnel in the office of the Inspector General, CIA, provided, we determined that DoD Components placed at least 194 Economy Act orders valued at \$92.8 million (see Appendix E) through NPIC to Sun Microsystems since the additional Economy Act requirements were issued in the Defense Authorization Act for FY 1994 and in the February 8, 1994, Secretary of Defense policy statement. Also, DISA has issued five Economy Act orders valued at \$19.6 million directly to Sun Microsystems using the NPIC contract as the procurement vehicle. We do not know the number or value of Economy Act orders other DoD Components placed directly with Sun Microsystems. Personnel in the Office of the Inspector General, CIA, stated that information on Economy Act orders other DoD Components placed directly with Sun Microsystems was not available. Therefore, we cannot determine which of the Economy Act orders remain open. Table 1 below shows examples of Economy Act orders DoD Components have issued since the additional statutory and regulatory guidance was issued.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Table 1. Examples of Economy Act Orders Placed After Issuance of Additional Economy Act Order Requirements

<u>DoD Component</u>	<u>Number of Economy Act Orders</u>	<u>Value (millions)</u>
Defense Information Systems Agency	25	\$45.1
Standard Systems Group, Gunter Air Force Base	7	7.7
Army Nuclear and Chemical Agency	8	4.8
Air Force Technical Applications Center	8	2.5
U.S. Strategic Command	3	1.8

DISA issued Economy Act orders for Sun model computer equipment, such as servers, workstations, memory expansion, hard and floppy data drives, data storage devices, compact disk drives, adapter and connecting cables and kits, software, maintenance, and other ancillary equipment to be used in the Global Command and Control System.

Use of Economy Act Orders. The DoD Component personnel stated that they used the NPIC contracts because NPIC said that the prices were the best and that delivery time was quick. Personnel at one DoD Component told us that Economy Act orders are sometimes used to obligate expiring funds.

An example of the use of Economy Act orders to obligate expiring funds was an Economy Act order the Naval Computer and Telecommunications Station, New Orleans, issued on behalf of the Air Force Materiel Systems Center, Wright-Patterson, Air Force Base. On September 30, 1992, the last day of FY 1992, the Materiel Systems Command sent \$860,000 in Operation and Maintenance funds (1-year funds) through a military interdepartmental purchase request to the Naval Computer and Telecommunications Station, New Orleans. Although, the Materiel Systems Center obligated the money at the end of FY 1992, the money did not fill a valid requirement until January 5, 1993, when the Naval Computer Telecommunications Station, New Orleans, placed the Economy Act order with NPIC. Consequently, that Economy Act order was inappropriately used as a vehicle to obligate expiring funds.

DoD Components Did Not Consider Economy Act Orders Placed Directly with Sun Microsystems to be Economy Act Orders. The DoD Components did not consider Economy Act orders made under memorandums of understanding with NPIC subject to Economy Act requirements because the DoD Components sent the orders directly to Sun Microsystems rather than through NPIC. However, memorandums of understanding do not change the fact that NPIC will continue to receive a contractor rebate in the form of computer equipment. Additionally, because those Economy Act orders are made by DoD Components against an NPIC contract (and not a DoD contract) with Sun Microsystems, the orders are still subject to Economy Act provisions.

Management Response to Previous Reports that Relate to Economy Act Requirements. The Office of the Inspector General, DoD, has issued numerous reports that cite DoD Components for circumventing Economy Act

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

requirements, not establishing management controls to ensure adequate administration of Economy Act orders, and not establishing centralized oversight of Economy Act orders. Also, Inspector General, DoD, Report No. 90-034, "Contracting Through Interagency Agreements with the Library of Congress," February 9, 1990, recommends disciplinary actions against DoD program officials who exceeded their authority. DoD management generally concurred with the recommendations.

Conclusion

Because they did not have access to and complete knowledge of the terms and conditions of the NPIC contract, the DoD Components could not determine whether DoD obtained the best value for the computer equipment. Consequently, the DoD Components overpaid for computer equipment, augmented NPIC funds, and contravened statutory and regulatory requirements for Economy Act orders. Further, DoD Components relinquished their contracting responsibilities when they placed Economy Act orders with NPIC.

The DoD should be fully capable of negotiating favorable terms with vendors when it is a large volume customer, instead of relying on the CIA. The DoD must stop the misuse of Economy Act orders.

Management Comments on the Finding and Audit Response

Management Comments. We received responses from 14 of the 18 organizations that were required to comment on the draft report. Only three of those organizations specifically commented on the finding. Although not required to comment, NPIC and the Naval Computer and Telecommunications Station, New Orleans, provided comments on the report.

Army Comments. The Army partially concurred with the finding, stating that Army organizations may have been improperly overcharged. The Army also disagreed with some finding assumptions and conclusions, stating that it disagreed with:

the unsupported conclusion that the prices paid by Army activities were not fair and reasonable at the time of acquisition by non-procurement personnel, all factors considered;

The Army also indicated that an Economy Act transfer is not a procurement transaction and is often conducted instead of a procurement transaction and that the law does not require a market survey or an elaborate cost-benefit analysis. Further, the Army questioned how the NPIC contracts differ in substance from instruments such as General Services Administration, automated data processing schedules. The Army did not agree that the Economy Act

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

requirements apply to orders placed directly with Sun Microsystems and the provisions of the contract of NPIC. The Army stated that for an order to be an Economy Act order, it must be placed with the receiving agency and that the prime consideration is whether DoD transferred funds to NPIC not whether the contract is an NPIC contract. The Army stated that the contractual language allowing the direct ordering by DoD Components shows that the direct orders were not Economy Act orders.

Navy Comments. The Navy partially concurred with the finding and disagreed that the orders placed directly with Sun Microsystems were Economy Act orders. The Navy stated that it believes the Economy Act does not apply to an order for contractor goods or services, properly authorized by statute and regulation, and placed by a Navy contracting officer directly under the contract or basic ordering agreement of another agency.

U.S. Atlantic Command Comments. The U.S. Atlantic Command concurred with the finding and indicated that it uses a contract that the Defense Intelligence Agency has with "SUN"³ that has pricing equal to the NPIC contract with Sun Microsystems.

Defense Mapping Agency. The Defense Mapping Agency did not comment on the finding. However, the Defense Mapping Agency did not agree that orders placed directly with Sun Microsystems, under the memorandum of understanding with NPIC, are subject to Economy Act requirements. The Defense Mapping Agency indicated that NPIC delegated the ordering, funding, and payment functions and that the memorandum of understanding did not include any service fees for contracting or acquisition costs.

Other DoD Component Comments. Although they did not specifically comment on the finding, the U.S. European Command, U.S. Special Operations Command, and the Defense Mapping Agency indicated they believed that they had obtained the best value in obtaining computer equipment.

NPIC Comments. The NPIC nonconcurred with the finding, stating that the report omitted the conclusion of a May 11, 1995, Inspector General, CIA report. NPIC stated that the report states that contract prices and terms did appear advantageous when compared to other Government contracts. The comments also stated the following.

- o NPIC returns unliquidated DoD funds to DoD on a routine basis.
- o NPIC did not receive reimbursement for administrative costs.

³We do not know whether the Atlantic Command has a contract with Sun Microsystems or another "SUN" contracting entity because the Atlantic Command did not specify which of the 101 "SUN" contracting entities it is doing business with.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

- o Because DoD routinely adds a 5-percent surcharge to Economy Act requests, NPIC is willing to consider such a surcharge to offset the NPIC administrative costs.

Naval Computer and Telecommunications Station, New Orleans (the Naval Station) Comments. The Naval Station did not specifically comment on the finding. However, the Naval Station stated that at no time were Economy Act orders used to obligate expiring funds, and that until August 2, 1995, it did not know that Economy Act orders were valid only for current year funds. The comments further stated:

The funding document in question was one of many funding documents received over a period of a year on a multi-year initiative to assist several commands either at or closely linked to the Wright-Patterson Air Force Base with information technology enhancement. We often receive multiple funding documents for work with large customer projects and, for the sake of simplicity in tracking, utilize the funding documents for like activity; e.g.[for example], one FD [financial document] will be strictly for hardware and software acquisitions where another FD will be used for application development and project management labor;

Audit Response. DoD Components indicated that they believed they obtained the best value in response to the Economy Act orders on the NPIC contract. We concluded that DoD Components may not have received the best value by ordering through NPIC, not that the prices the Army components paid were not fair and reasonable. We maintain that the DoD Components did not know whether they received the best value, because they did not have knowledge of the contract terms and conditions. Without access to NPIC acquisition and contracting information, the DoD Components cannot make valid acquisition and contracting decisions, such as determining whether the contract complies with the Federal Acquisition Regulation and determining the actual cost of the computer equipment. Without the actual cost, the DoD Components cannot perform a best-value analysis.

The difference between the NPIC contract and a General Services Administration schedule is that the General Services Administration performed the planning, solicitation, and award phases to comply with Federal Acquisition Regulation requirements. Therefore, there is no need to seek further competition. Also, NPIC is not required to follow the Federal Acquisition Regulation; consequently, there is no assurance the contract is in substantial compliance with the Federal Acquisition Regulation. The May 11, 1995, memorandum from the Office of the Inspector General, CIA, states that:

- o NPIC awarded the original requirements contract on a noncompetitive basis to Sun Microsystems;
- o NPIC may not have achieved competition in awarding contract 95-K216600-000 because NPIC received only one responsible offer; and
- o the need for security sometimes necessitates variances from the Competition in Contracting Act and the Federal Acquisition Regulation.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

All of the above are DoD contracting requirements that aid the DoD in achieving the best value when contracting for supplies or services. Furthermore, it is not clear how DoD Components determined that best value was obtained without conducting a market survey or attempting to ascertain whether other qualified sources capable of satisfying the requirements existed.

The Office of the Inspector General, CIA, memorandum does not state that NPIC contract pricing appears advantageous when compared to other Government contracts. The memorandum states that NPIC pricing appears advantageous to the Government. That statement was based on discounts applied to Sun Microsystems current catalog prices received by NPIC.

We disagree that the direct orders that DoD Components placed with Sun Microsystems are not Economy Act orders. The memorandums of understanding between NPIC and the DoD Components allow the DoD Component to place Economy Act orders directly with Sun Microsystems and require the DoD Components to:

- o place orders under the mandatory established guidelines,
- o use preassigned delivery order numbers,
- o report to NPIC quarterly the number of delivery orders issued and the dollar amount, and
- o place a minimum percentage of Sun Microsystems computer products on all orders.

The memorandums of understanding between NPIC and the DoD Components do not remove the associated orders from the requirements of the Economy Act. Regardless of the way the transactions were structured, the underlying authority for the DoD purchases was the NPIC contract with Sun Microsystems. The NPIC contract is still subject to the terms that NPIC negotiated. Whether or not the DoD Components place their orders directly with Sun Microsystems, the supplies are still being procured and provided, at the request of the DoD Component, by another agency (NPIC), via the NPIC contract.

Recommendations, Management Comments, and Audit Responses

Revised, Renumbered, and Redirected Recommendations. As a result of management comments, we redirected draft Recommendations 1.d. and 1.e. to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) and renumbered the Recommendations as 2.a. and 2.b. Draft Recommendations 2.a. and 2.b. have been renumbered as Recommendations 3.a. and 3.b. Draft Recommendations 3.a. and 3.b. have been renumbered as Recommendations 4.a. and 4.b.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

1. We recommend that the Under Secretary of Defense for Acquisition and Technology; Assistant Secretary of Defense (Health Affairs); Commander in Chief, U.S. European Command; Commander in Chief, U.S. Pacific Command; Commander in Chief, U.S. Atlantic Command; Commander in Chief, U.S. Central Command; Commander in Chief, U.S. Special Operations Command; Commander in Chief, U.S. Transportation Command; Commander in Chief, U.S. Strategic Command; Assistant Secretary of the Navy (Research, Development and Acquisition); Assistant Secretary of the Air Force (Acquisition); Director, Defense Information Systems Agency; Director, Defense Intelligence Agency; Director, Defense Logistics Agency; Director, Defense Mapping Agency; Director, Defense Nuclear Agency; Director, Joint Staff; and the Auditor General, Department of the Army:

a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

b. Cancel all unfilled orders that have been placed on National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment.

Management Comments. Management generally concurred, stating that they would stop issuing and cancel all unfilled Economy Act orders. Additionally, the U.S. Pacific Command recommended that the DoD Components be permitted to continue placing Economy Act orders on the NPIC contract until DoD establishes a contract for DoD Component use. Also, the U.S. Atlantic Command stated that it is using a Defense Intelligence Agency contract with "SUN" which has pricing equal to the NPIC contract with Sun Microsystems.

As a result of the audit, the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) issued a memorandum, "DoD Orders Against National Photographic Interpretation Center (NPIC) Contract with Sun Microsystems," September 11, 1995. The memorandum states that for any unfilled orders and orders approved through September 30, 1995, the DoD Components are required to submit a best-value analysis to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) and NPIC which demonstrates that the use of the NPIC contract is in the best interest of the DoD. Also, for orders approved October 1, 1995, or later, the memorandum requires DoD Components to comply with DoD Instruction 4000.19 and the Federal Acquisition Regulation. The memorandum also requires the DoD Components to preserve the records that document the approval for the Component to place the Economy Act order on the NPIC contract and to make those records available to the Inspector General, DoD, upon request. See Appendix F for the complete text of the memorandum.

Audit Response. We considered management comments to be responsive. DoD Component compliance with the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) guidance will meet the intent of the recommendations.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

Management Comments. Of the 18 organizations required to respond to the recommendation, 7 organizations concurred, stating that a review should be conducted of officials who did not comply with Economy Act statutory and regulatory requirements. The Assistant Secretary of Defense (Health Affairs), U.S. Central Command, U.S. Transportation Command, and Defense Mapping Agency stated either that they have conducted a review or that actions have been taken. The Air Force and Defense Information Systems Agency will conduct a review. The Navy did not state whether it conducted or would conduct a review.

The Defense Logistics Agency partially concurred, stating that it issued policy in May 1995, providing procedures to be followed when using Economy Act orders. The U.S. European Command stated that the primary personnel responsible for the previous Economy Act orders are no longer with the command.

The Army nonconcurred, stating that officials who knowingly violated the Economy Act would be disciplined as deemed appropriate by their commanders. However, the Army indicated that it could not take action without the identification of specific violations by Army organizations and officials.

Although the U.S. European Command, U.S. Pacific Command, U.S. Atlantic Command, and U.S. Special Operations Command provided comments, they did not respond specifically to the recommendation. The Under Secretary of Defense for Acquisition and Technology, U.S. Strategic Command, Defense Intelligence Agency, Defense Nuclear Agency, and the Joint Staff did not provide comments.

Audit Response. Although the Navy concurred, it did not state whether a review had been or would be conducted. We request that the Navy provide more information on completed or planned actions in response to the final report.

We consider the Defense Logistics Agency comments to be partially responsive. Although the Defense Logistics Agency issued policy providing procedures for future use of Economy Act orders, the response does not discuss whether a review will be conducted. We request that the Defense Logistics Agency provide completed or planned actions in response to the final report.

We consider the Army comments to be partially responsive. We determined that Army components issued Economy Act orders after additional statutory and regulatory guidance had been provided to regulate the use of Economy Act orders and listed the FYs 1994 and 1995 Economy Act orders in the draft quick-reaction report. Army personnel entered into contractual arrangements without having knowledge of the contract terms and provisions and, therefore, were not fully aware of the contract terms and provisions. The Army could have used the list included in the draft quick-reaction report to identify potential

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

specific violations by Army officials. We request that the Army reconsider its position on the recommendation and indicate completed or planned actions in response to the final report.

We request that the U.S. European Command, U.S. Pacific Command, U.S. Atlantic Command, and U.S. Special Operations Command delineate completed or planned actions in response to the final report. We request that the Under Secretary of Defense for Acquisition and Technology, U.S. Strategic Command, Defense Intelligence Agency, Defense Nuclear Agency, and the Joint Staff provide complete comments on the final report.

2. We recommend that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence):

a. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

b. Obtain a refund from the National Photographic Interpretation Center for benefits accrued because of the DoD Component orders.

Management Comments. Of the 18 organizations required to respond to the draft report recommendations, 6 organizations concurred, stating that they would determine the actual cost of the computer equipment. The Defense Information Systems Agency partially concurred, stating that if rebates actually accrued to NPIC because of DoD Component orders, then DoD should receive a refund, but that a single DoD office would be in a better position to negotiate with NPIC rather than each unified commander, Military Department, or Defense agency.

The U.S. Central Command, the U.S. Transportation Command, and the Army nonconcurred, stating that the DoD would be in a better position to accomplish the pricing exercise, determine the true cost of the equipment purchased, and obtain a refund.

The U.S. Pacific Command, U.S. Atlantic Command, and U.S. Special Operations Command did not respond specifically to the recommendation. The Under Secretary of Defense for Acquisition and Technology, U.S. Strategic Command, Defense Intelligence Agency, Defense Nuclear Agency, and the Joint Staff did not provide comments.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

NPIC Comments. Although not required to comment, NPIC disagreed that DoD augmented NPIC funds and stated:

If NPIC had been aware of a concern regarding disposition of the DoD prompt payment discount, or any unliquidated obligations, copies of NPIC's Finance Division records would have been provided to DoD IG. These records clearly document that unliquidated DoD funds have been returned to DoD on a routine basis by the Director or Liaison, OFL/DA/CIA.

Also, NPIC indicated that it did not receive reimbursement for administrative costs related to the subject orders. The NPIC is willing to consider such a surcharge to offset the significant costs it incurred to process and administer the DoD orders in exchange for consideration of applicable rebates.

Audit Response. We considered DoD management comments to be generally responsive. As a result of the comments regarding the difficulties in getting access to NPIC records and in attempting to obtain the return of funds, we met with the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) and agreed on the following.

- o The Inspector General, DoD, will assist the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) in determining the actual cost incurred and the refund due to the DoD Components.

- o The Assistant Secretary of Defense (Command, Communications, Control and Intelligence) will obtain the refund from NPIC for benefits accrued because of the DoD Component orders.

Accordingly, we redirected the recommendations to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). We request that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) provide comments on the final report.

We disagree with the NPIC comments. We discussed the discounts and rebates Sun Microsystems gave to NPIC with personnel in the Office of the Inspector General, CIA, and requested the related NPIC financial documentation through them. Also, we found no evidence that NPIC returned money to DoD. Although NPIC states that it did not receive reimbursement for administrative costs, the DoD Components were unaware of the rebates and discounts that NPIC received from Sun Microsystems that were a part of the contract terms. Those rebates and discounts far exceeded any NPIC administrative costs.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

3. We recommend that the Under Secretary of Defense for Acquisition and Technology accelerate implementation of the Secretary of Defense memorandum of February 8, 1994, to:

a. Revise DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to include the requirements of the Defense Authorization Act for FY 1994 and the February 8, 1994, Secretary of Defense memorandum, "Use of Orders Under the Economy Act."

b. Establish a tracking system to report, on an annual basis, the number and associated dollars of the Economy Act orders that DoD Components release outside the DoD.

Management Comments. The Under Secretary of Defense for Acquisition and Technology reissued DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," effective October 1, 1995. The requirements in the February 8, 1994, Secretary of Defense memorandum, "Use of Orders Under the Economy Act," have been included in the Instruction.

Audit Response. We consider the comments to be partially responsive. Reissued DoD Instruction 4000.19 requires the Economy Act order receiving agency to report to the Assistant Secretary of Defense (Economic Security) any support agreement with a non-DoD Federal agency and the estimated reimbursements for supplies or services. However, DoD Instruction 4000.19 does not comply with the February 8, 1994, Secretary of Defense memorandum, which requires the agency to report, on an annual basis, the number and associated dollars of Economy Act orders released outside the DoD. Furthermore, the comments do not provide a plan of action for establishing the actual tracking system used to report the number of Economy Act orders and associated dollars. We request that the Under Secretary of Defense for Acquisition and Technology delineate completed or planned actions to establish the tracking system in response to the final report.

4. We recommend that the Director, Defense Information Systems Agency:

a. Determine whether existing DoD contracts with Sun Microsystems Federal, Incorporated, will provide the best value for the DoD, or

b. Solicit and award a contract to obtain Sun Microsystems Federal, Incorporated, computer equipment to ensure the best value for DoD.

Management Comments. The DISA concurred. The DISA provided a draft memorandum designating the DISA Office of the Competition Advocate as the focal point for the approval of DISA Economy Act orders. Also, DISA stated that it will use existing DoD contracts that provide the best value for the Government. In addition, DISA will solicit and award additional requirements for Sun model workstations to assure that future contracts are competitive.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Audit Response. We consider management comments partially responsive. The intent of the recommendation was for DISA, as the DoD Information Systems authority and specialist, to implement the recommendations to provide a best value contract for all DoD Components. Specifically, if DISA determines that the NPIC contract is the best value, then DISA should negotiate a contract with Sun Microsystems for all DoD Components. That strategy would enable the DoD Components to take advantage of the rebates Sun Microsystems offered to NPIC and would preclude DoD from paying NPIC to administer the contract. The comments do not specifically provide a DISA plan of action for determining which alternative would provide the best value for all DoD Components. We request that DISA provide a specific plan of action for implementation of Recommendations 4.a. or 4.b. in response to the final report.

Management Comments Required

Management is requested to comment on the items indicated with an X in the following table.

DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

Table 2. Items on Which Management Must Comment

<u>Recommendation</u>	<u>Organization</u>	<u>Position</u>	<u>Planned Action</u>	<u>Date of Completion</u>
1.c.	USD(A&T)	X	X	X
	EUCOM	X	X	X
	PACOM	X	X	X
	ACOM	X	X	X
	SOCOM	X	X	X
	STRATCOM	X	X	X
	Army	X	X	X
	Navy	--	X	X
	DIA	X	X	X
	DLA	X	X	X
	DNA	X	X	X
	Joint Staff	X	X	X
2.a.	ASD(C ³ I)	X	X	X
2.b.	ASD(C ³ I)	X	X	X
3.b.	USD(A&T)	X	X	X
4.a.	DISA	--	X	X
4.b.	DISA	--	X	X

ACOM	Atlantic Command
ASD(C ³ I)	Assistant Secretary of Defense (Command, Control, Communications and Intelligence)
DIA	Defense Intelligence Agency
DISA	Defense Information Systems Agency
DLA	Defense Logistics Agency
DNA	Defense Nuclear Agency
EUCOM	European Command
PACOM	Pacific Command
SOCOM	Special Operations Command
STRATCOM	Strategic Command
USD(A&T)	Under Secretary of Defense for Acquisition and Technology

Part II - Additional Information

Appendix A. Scope and Methodology

Scope

Universe and Sample. Personnel in the Office of the Inspector General, CIA, gave us a list of Economy Act orders that the 17 major DoD Components placed on two contracts (contract 87-K362300-000 and contract 95-K216600-000) between NPIC and Sun Microsystems. That list showed 1,177 Economy Act orders totaling \$365.3 million. We judgmentally selected for review 28 Economy Act orders, totaling \$33.3 million, issued by 3 DoD Components. We did not make any statistical projections based on the selected Economy Act orders.

Methodology Used. We reviewed selected Economy Act orders for compliance with the Economy Act; the Defense Authorization Act for FY 1994; and the February 8, 1994, Secretary of Defense policy memorandum. We reviewed supporting documentation, dated from September 1987 through June 1995, from the program, contract, and accounting and finance offices for the selected Economy Act orders. Also, we interviewed contracting officers, accounting and finance personnel, and program office personnel from the three DoD Components. As a result of our reviews and discussions with personnel in the Office of the Inspector General, CIA, we determined that DoD Components did not have access to NPIC contract information. Further, using the DD Form 350 data base, we determined the cost of DoD contracts with Sun Microsystems since 1988.

Limitations to Audit Scope. We did not have access to contractor invoices provided to NPIC for DoD purchases, and we did not have access to NPIC information on the exact amount of computer equipment provided to NPIC as a result of DoD purchases.

Reliability of the Universe Data. To derive the number of DoD contracting actions with Sun Microsystems, we relied on the data base information on the DoD Components' Economy Act orders provided by personnel in the Office of the Inspector General, CIA, and on the DD Form 350 data base. Because we could not verify the accuracy of information provided by personnel in the Office of the Inspector General, CIA, we were unable to quantify the specific amount of potential monetary benefits. Not determining the reliability of the DD Form 350 data base had no material effect on audit results.

Audit Period, Standards, and Locations. We performed this economy and efficiency audit from April through July 1995 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Our scope was limited in that we did not perform a review of the management control program. We will issue a separate report that discusses the implementation of the management control program on Economy Act orders. The audit was primarily made at the

Appendix A. Scope and Methodology

Defense Information Systems Agency, Arlington, Virginia; the Marine Corps Systems Command, Quantico, Virginia; and the Naval Communications Station, New Orleans, Louisiana. Appendix H lists all organizations visited or contacted.

Appendix B. Summary of Prior Audits and Other Reviews

Office of the Inspector General, DoD, Report No. 95-INS-11, "U.S. Central Command Inspection Report," August 11, 1995. The report states that the U.S. Central Command has adequate processes in place to identify contracting requirements, to ensure requirements are justified and reviewed, and to fill the requirements through the base contracting office. The same process is also used to review and approve Military Interdepartmental Procurement Requests and Economy Act Orders. It was determined that the above orders were processed during the prior year in accordance with the applicable rules and regulations.

Office of the Inspector General, DoD, Report No. 94-135, "Procurements by the Non-Acoustic Anti-Submarine Warfare Program through the Environmental Technologies Laboratory," June 14, 1994. The report states that \$18.6 million out of the \$18.9 million Economy Act orders let through the Non-Acoustic Anti-Submarine Warfare Program Office to the Environmental Technologies Laboratory was not reviewed and approved by a DoD contracting officer. The report recommends that the Director, Washington Headquarters Services, require a justification from a DoD contracting officer; that the Air Force District of Washington 1100th National Capital Region Support Group recover fees totaling \$1.2 million; and that the Department of Commerce, the Environmental Technologies Laboratory, and the Tennessee Valley Authority assess the Non-Acoustic Anti-Submarine Warfare Program. The Director, Administration and Management, Office of the Secretary of Defense, partially concurred with the recommendations directed to the Washington Headquarters Services. The Air Force concurred with the recommendations and pursued the return of funds.

The National Oceanic and Atmospheric Administration Environmental Technologies Lab indicated that the Department of Commerce had not agreed with the audit report and declined to return the \$1.2 million in fees, stating that the funds had been spent properly and that no funds remained to be transferred to DoD. On October 14, 1994, the Director, Administration and Management, Office of the Secretary of Defense, issued a memorandum to clarify the proper use of Economy Act orders and to require justification for any amendment greater than 20 percent of the basic agreement.

Office of the Inspector General, DoD, Report No. 94-008, "DoD Procurements through the Tennessee Valley Authority Technology Brokering Program," October 20, 1993. The report states that DoD organizations issued Economy Act orders to the Technology Brokering Program, circumventing the Federal procurement process; that DoD organizations did not provide for adequate contract administration and contract audits to verify that work was performed in accordance with the Tennessee Valley Authority cooperative agreements; and that in FY 1992, the Tennessee Valley Authority earned about \$3.5 million in interest by requiring DoD to make payments before receiving goods and services. The report recommends that the Deputy Under Secretary of Defense (Environmental Security) revise

Appendix B. Summary of Prior Audits and Other Reviews

DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to prevent DoD misuse of Economy Orders, obtain a refund of unliquidated advance payments, and transfer funds based on incurred costs. The Army, Navy, and Air Force generally agreed with the recommendation. The Deputy Under Secretary of Defense (Environmental Security) agreed to review DoD Instruction 4000.19 to include the recommended procedures and controls and reissued the Instruction in August 1995 with an effective date of October 1, 1995.

Office of the Inspector General, DoD, Report No. 93-078, "Review of Economy Act Transfers in the Intelligence Community," March 29, 1993. The report states that 16 DoD organizations benefited from the use of National Foreign Intelligence Program funds designated under the Defense Appropriation Bill for goods or services. No recommendations were made, but management agreed that the report was accurate.

Office of the Inspector General, DoD, Report No. 93-068, "Procurement of Services for the Non-Acoustic Anti-Submarine Warfare Program through the Tennessee Valley Authority", March 18, 1993. The report states that the Director, Defense Research and Engineering, and the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) did not properly control and administer the expenditure of \$18.6 million for the Non-Acoustic Anti-Submarine Warfare Program as a result of not following management controls. The report recommends that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) direct that adequate contract administration be performed at the Tennessee Valley Authority, revise existing interagency agreements to reflect any agreement on contract administration and contract audits, request the Tennessee Valley Authority to recoup questioned costs, establish controls over classified data to ensure separation of duties, withdraw any remaining funds from the Tennessee Valley Authority that were not obligated on a cooperative agreement, and provide training. Management did not agree with all of the issues in the report, but concurred with all recommendations. Contract administration is and future procurements will be performed within the non-acoustic Anti-Submarine Warfare program. In addition, a consolidated inventory list was to be established and maintained to ensure the proper handling of classified documentation.

Office of the Inspector General, DoD, Report No. 93-042, "Allegations of Improprieties Involving DoD Acquisition of Services through the Department of Energy," January 21, 1993. The report states that the Military Departments did not adequately strengthen controls over the use of interagency agreements through the Department of Energy as recommended by a previous Inspector General, DoD, report. Report No. 93-042 recommends that DoD establish criteria and specify details to include in interagency agreements, discipline DoD officials who knowingly exceeded their authority by placing Economy Act orders with the Department of Energy, establish management controls to ensure adequate administration of DoD Economy Act orders, and establish a system for tracking DoD procurements that use Economy Act orders. The report also recommends the establishment of a central point within DoD to oversee policy and administration of interagency acquisitions. The Director of

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Defense Procurement nonconcurred with the need for an information system to track interagency acquisitions, but will address the need for contracting officer approval of Economy Act orders through the Defense Acquisition Regulations Council. The Military Departments and the Defense Logistics Agency agreed that interagency agreements and related orders should be reviewed, then ratified or terminated, but disagreed on whether the review was the responsibility of DoD contracting officers. The Comptroller of the Department of Defense (now the Under Secretary of Defense [Comptroller]) agreed to establish a requirement that finance and accounting officers would not authorize funds for interagency orders, unless a contracting officer had certified that the orders were proper. Further, oversight controls and strengthened policies were implemented to prevent any occurrence of a program official making an agreement with a civil agency for contractor support without proper justification and approval. No Military Department took disciplinary action because they concluded that the responsible program officials did not knowingly exceed their authority or attempt to circumvent prescribed acquisition procedures. The Secretary of Defense issued a memorandum on February 8, 1994, that clarified responsibilities for review and approval of funds for interagency orders.

Office of the Inspector General, DoD, Report No. 92-INS-10, "On-Site Inspection Agency Inspection Report," July 17, 1992. The report states that the On-Site Inspection Agency, DoD, violated the provisions of the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement by not including the contracting officer in the Economy Act process. The report recommends that the On-Site Inspection Agency issue guidance requiring the contracting officer to review and approve Economy Act orders and to institute control mechanisms to ensure that funds are not transferred to non-DoD agencies without obtaining approval from the proper officials. Management concurred with the recommendations and incorporated procedures into the On-Site Inspection Agency Acquisition Manual, chapter 10, to comply with the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. On March 16, 1995, the On-Site Inspection Agency issued Instruction 4000.2, "Support Agreements," to establish policies and procedures for developing, coordinating, implementing, and administering interservice, interagency, and interdepartmental support agreements.

Office of the Inspector General, DoD, Report No. 92-091, "Final Quick-Reaction Report on Accountability of Government Automatic Data Processing Equipment at U.S. Army Special Operations Command," May 15, 1992. The report states that the Army Special Operations Command, Fort Bragg, North Carolina, had not established adequate property accountability records for \$3.4 million of automatic data processing equipment. The report recommends that the Commanding General, Army Special Operations Command, conduct a physical inventory and establish property accounting controls for the equipment and initiate a serious incident report. The Army Special Operations Command concurred with the recommendations and identified corrective actions. Property book standard operating procedures had been in effect since July 17, 1992. All major end items were accounted for as a

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result of the recommended physical inventory. Items that were not on the property book were identified and located at the installation. The Army was confident that a serious incident report was not warranted.

Office of the Inspector General, DoD, Report No. 92-069, "Quick-Reaction Report on DoD Procurements Through the Tennessee Valley Authority," April 3, 1992. The report states that DoD officials, who lacked authority under the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement to approve interagency acquisitions, improperly authorized 147 interagency orders to transfer \$84.8 million of expiring funds during August and September 1991 to the Tennessee Valley Authority to ensure that the expiring funds were obligated and that the organizations did not lose the use of the funds. The Tennessee Valley Authority accepted the orders, assuming they were properly authorized by DoD organizations. The report recommends that the Assistant Secretary of Defense (Command, Control, Communications and Intelligence); the service acquisition executives; and the Director, Defense Logistics Agency, cancel those interagency orders issued to the Tennessee Valley Authority that have not been placed on contract, prohibit placement of supplemental work under existing interagency agreements if not properly approved by a contracting officer, discontinue the use of military interdepartmental purchase requests and similar ordering forms to acquire goods and services from other Government agencies, and develop a form that includes sections to be completed by a contracting officer. The Army, Navy, Air Force, and Defense Logistics Agency generally concurred with the findings and recommendations. As a result, approximately \$22 million funds were deobligated by the Military Departments. The Director, Defense Research and Engineering concurred with the recommendation, but planned no disciplinary actions for managers because the Director stated the managers had not exceeded their authority. The Director, Defense Research and Engineering, comments were considered to be generally responsive.

Office of the Inspector General, DoD, Report No. 90-085, "DoD Hotline Allegation of Irregularities in DoD Contractual Arrangements with the Department of Energy," June 19, 1990. The report states that program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Furthermore, DoD management controls were not adequate to ensure compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement when program officials placed orders with the Department of Energy. The report recommends that the Under Secretary of Defense for Acquisition (now the Under Secretary of Defense for Acquisition and Technology) improve DoD management control procedures to minimize the risk of placing orders for interagency acquisitions, that appropriate training be provided to DoD program officials, and that disciplinary actions be considered against those DoD program officials who exceeded their authority. Management concurred with the findings and recommendations, and the then Principal Deputy Assistant Secretary of Defense (Logistics) issued a memorandum on May 10, 1990, to the Military Departments and the Defense

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Logistics Agency. The memorandum solicited support in training program officials and in establishing management control procedures to prevent placement of interagency orders by unauthorized DoD program officials.

Office of the Inspector General, DoD, Report No. 90-034, "Contracting Through Interagency Agreements with the Library of Congress," February 9, 1990. The report states that DoD program officials circumvented established policy and exceeded their authority by not obtaining required approvals from DoD procurement officials or designated senior DoD officials when placing orders for interagency acquisitions. Also, DoD management controls were not adequate to ensure compliance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement when program officials placed orders with the Library of Congress. The report concludes that those weaknesses increased the risks of overpricing and susceptibility of interagency procurements to mismanagement, abuse, and fraud. The report recommends that the then Under Secretary of Defense for Acquisition (now the Under Secretary of Defense for Acquisition and Technology) improve DoD management control procedures to minimize the risk of placing orders for interagency acquisitions by unauthorized DoD program officials, that appropriate training be provided to DoD program officials, and that disciplinary actions be considered against those DoD program officials who exceeded their authority. Management generally concurred with the findings and recommendations. On May 10, 1990, a memorandum issued by the then Principal Deputy Assistant Secretary of Defense (Logistics) solicited support in training program officials and in establishing management control procedures for placing interagency orders.

Army Audit Agency, Report No. CR 95-700, "Survey of Contract Offloading, Headquarters, Department of the Army," October 1, 1994. The report states that controls over contract offloading generally were adequate. However, some organizations reviewed did not obtain the required reviews and approvals before offloading requirements to non-DoD organizations. The report recommends that the Commanders of the U.S. Total Army Personnel Command and the U.S. Army Personnel Information Systems Command ensure that personnel were familiar with and followed policies and procedures for contract offloading and ensure that budget personnel cited the Economy Act on military interdepartmental purchase requests as the authority for contract offloads to non-DoD organizations. No official comments were requested and none were received.

Army Audit Agency, Report No. CR 95-701, "Survey of Contract Offloading," September 16, 1994. The report states that policies, procedures, and controls for contract offloading were not fully effective. Controls were not in place to make sure that organizations submitted all offloads to contracting offices for review and approval. Also, the Army did not have procedures for tracking and monitoring contract offloads. However, DoD and the Army issued policy letters to correct those control weaknesses. The report recommends that the Army monitor the implementation of the new policies and procedures for controlling contract offloading to make sure that controls are in place and operating. No formal comments were requested and none were received.

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Army Audit Agency, Report No. WE 91-A1, "Contract Offloading Advisory Report," September 11, 1991. The report summarizes common problems in contract offloading. The key sections in the report are the common problems found, a description of each problem in detail, and checklists to be utilized to identify and correct problems. No comments were received on the report.

Army Audit Agency, Report No. SW 91-200, "Contract Offloading," January 22, 1991. The report states that the controls over the use of contract offloading to other organizations were not adequate. Contracts were offloaded to expedite the acquisition of goods and services, frequently violating acquisition and funding regulations and statutes. Recommendations made to the Assistant Secretary of the Army (Research, Development and Acquisition) were to reinforce policies and procedures to require contracting, legal, and resource management personnel to review purchase requests and to advise Army organizations that the most economical acquisition sources must be sought and obtained. Recommendations to the Director of Information Systems for Command, Control, Communications, and Computers were to evaluate the feasibility of establishing a reporting system that captures the costs of requirements satisfied by using offload contracts for automated data processing equipment and to direct each organization to make a 100-percent inventory of general-purpose automated data processing equipment and software, reconcile results to the property book, and investigate differences. Management agreed with the recommendations, except the Director of Information Systems for Command, Control, Communications, and Computers did not agree to direct each organization to make a 100-percent inventory and reconcile results to the property book and investigate differences. A full concurrence was received during mediation when Army auditors clarified that the intended 100-percent inventory reconciliation of the property books was to be limited to 1989 and 1990 offloaded contracts.

Army Audit Agency, Report No. MW 91-750, "Acquisition and Contracting Financial Management Systems Integration Agency," January 14, 1991. The report states interagency support agreements were not properly established or used. The Fort McPherson suboffice furnished the requested support, but the suboffice did not use prescribed management techniques and sought to avoid competition when obtaining contracts. Eighteen recommendations were made to ensure supporting documentation was completed. The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) generally agreed with the findings and stated that corrective actions had been or would be taken on the recommendations. The Army (Financial Management and Comptroller) fully concurred with the findings and had taken action to correct the problems.

Naval Audit Service, Report No. 003-95, "Interagency Acquisitions at Selected Naval Activities," October 28, 1994. The report states that 81 interagency acquisitions valued at \$32.1 million did not meet the requirements of Federal, DoD, and Navy procurement and financial policies. The report concluded that Navy actions to improve controls were not effective and needed strengthening. The report recommends that management controls could be strengthened through establishing accountability and procedural

Appendix B. Summary of Prior Audits and Other Reviews

controls; developing criteria for making determinations; and requiring the tracking, reporting, and monitoring of Economy Act orders placed outside DoD. The Assistant Secretary of the Navy (Research, Development and Acquisition) concurred with the findings and recommendations. The Comptroller of the Navy generally concurred with the recommendations. As of September 8, 1995, corrective actions for five recommendations were still pending.

Air Force Audit Agency, Project No. 94063007, "Air Force Laboratory Financial Management," March 3, 1995. The report focuses on laboratory project officers that did not properly control or document 9 of the 14 Advanced Technology Transition Demonstrations reviewed. Specifically, resource planning documents for the nine demonstrations were missing, unsupported, incomplete, unclear, or outdated. The report recommends that the Directorate of Science and Technology, Air Force Materiel Command, issue comprehensive guidelines establishing demonstration project requirements, require laboratory commanders to review demonstration cost estimates during regularly scheduled program reviews, and perform annual reviews of all Technology Transition Plans for adequacy and completeness. Management officials agreed with the audit results and recommendations and pursued corrective action. Implementation of corrective actions is still pending.

Appendix C. DoD Component Economy Act Orders Through the National Photographic Interpretation Center Contracts

The following is a summary, based on information provided by personnel in the Office of the Inspector General, CIA, of the Economy Act orders placed through the National Photographic Interpretation Center on contracts 87-K362300-000 and 95-K216600-000. Since 1988, DoD Components placed 1,177 Economy Act orders costing \$365.3 million on the contracts.

Summary of Economy Act Orders Placed Against the NPIC Contracts

Organization	Number of DoD Components	Number of Economy Act Orders ¹	Value (millions)
Office of the Secretary of Defense	3	19	\$ 6.6
Army	50	258	74.6
Navy and Marine Corps	45	126	39.3
Air Force	78	479	136.2
U.S. European Command	1	28	7.0
U.S. Pacific Command	1	13	5.3
U.S. Atlantic Command	2	4	1.4
U.S. Central Command	1	13	4.6
U.S. Special Operations Command	1	17	4.0
U.S. Transportation Command	1	2	.1
U.S. Strategic Command	1	3	1.8
Defense Information Systems Agency	1	45	35.2
Defense Intelligence Agency	1	26	10.1
Defense Logistics Agency	2	7	5.1
Defense Mapping Agency	1	8	1.7
Defense Nuclear Agency	1	5	1.3
Joint Staff	1	21	4.5
Unknown ²	1	103	26.5
Total	192	1,177	\$365.3

¹We can provide, under separate cover, information (DoD subordinate component name, point of contact name and phone number, military interdepartmental purchase request number, and amount) on the Economy Act orders DoD Components placed through NPIC. This summary does not include Economy Act orders placed directly with Sun Microsystems.

²The data base provided by personnel in the Office of the Inspector General, CIA, did not include the name of the requesting DoD Component for the 103 Economy Act orders, and personnel in the Office of the Inspector General, CIA, stated that the information was not available.

Appendix D. Memorandums of Understanding with the National Photographic Interpretation Center for Direct Ordering from the Sun Microsystems Contract

The NPIC established memorandums of understanding with the 23 DoD Components listed below to allow them to place Economy Act orders directly with Sun Microsystems.

<u>DoD Component</u>	<u>Effective Date</u>
Army	
Procurement and Logistics Support Detachment	February 1995
Army Atlanta Contracting Center	May 1995
Army Intelligence and Security Command	June 1995*
Navy	
Fleet and Industrial Supply Center, Pearl Harbor	May 1995
Fleet and Industrial Supply Center, Puget Sound	May 1995
Marine Corps Systems Command	March 1995
Naval Research Laboratory	July 1995*
Air Force	
Dobbins Air Reserve Base	March 1995
1st Contracting Squadron, Langley Air Force Base (AFB)	April 1995
9th Contracting Squadron, Beale AFB	July 1995*
11th Contracting Squadron, Bolling AFB	July 1995
12th Contracting Squadron, Randolph AFB	September 1995*
55th Contracting Squadron, Offutt AFB	February 1995
375 Contracting Squadron, Scott AFB	June 1995*
710 Operational Contracting Flight	March 1995
Electronic Systems Command, Hanscom AFB	March 1995
Air Intelligence Agency, Kelly AFB	April 1995
Air Combat Command, Langley Air Force Base	May 1995*
Defense Agency	
Defense Information Systems Agency	March 1995
Defense Mapping Agency	March 1995
Defense Nuclear Agency	March 1995
Other Defense Organizations	
U.S. Transportation Command	February 1995
Defense Evaluation Support Activity	March 1995

* Memorandums established since issuance of the draft report, July 28, 1995

Appendix E. DoD Economy Act Orders Placed Through the National Photographic Interpretation Center Contracts for FYs 1994 and 1995

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
1994				
Army				
104th Military Intelligence Battalion	972	Sept. 22, 1994	\$ 60,265	n/a ²
Deputy Chief of Staff for Intelligence	812	Aug. 16, 1994	90,474	\$ 58,306
Europe 7th Army Training Center	789	July 12, 1994	45,905	999,519
Foreign Science and Technology Center	641	Mar. 4, 1994	135,670	244,349
	668	Mar. 25, 1994	2,145,354	118,308
	720	May 25, 1994	2,169,457	n/a ²
	663	Mar. 25, 1994	289,556	286,834
	692	May 23, 1994	4,229,138	1,987,000
	706	May 23, 1994	280,534	281,528
	714	May 25, 1994	77,344	441,712
	719	May 25, 1994	240,476	2,052,195
	734	June 9, 1994	96,755	102,393
	758	May 31, 1994	57,402	295,193
	781	June 30, 1994	2,740,926	80,514
	804	Aug. 16, 1994	306,810	306,810
	814	Sept. 13, 1994	91,213	92,415
	943	Sept. 22, 1994	238,326	389,996
	956	Sept. 22, 1994	63,049	132,550
	965	Sept. 22, 1994	65,904	72,219
	661	Oct. 1, 1993	34,404	40,139

See footnotes at the end of the table.

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<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Intelligence Threat Analysis Center	703	May 25, 1994	249,877	71,033
	705	Apr. 1, 1994	49,734	59,275
	946	Sept. 22, 1994	210,389	82,000
Nuclear and Chemical Agency	623	Feb. 1, 1994	212,527	97,731
	690	May 5, 1994	62,343	500,000
	957	Sept. 22, 1994	504,473	22,821
Pacific Command	902	Sept. 22, 1994	136,683	93,240
Research Laboratory	658	Mar. 24, 1994	462,170	455,000
Communications and Electronics Command	765	June 22, 1994	147,776	14,130
	770	June 22, 1994	206,502	1,370,030
	987	Sept. 28, 1994	5,036	107,213
National Ground Intelligence Center	977	Sept. 22, 1994	11,786	1,220
	982	Sept. 22, 1994	129,176	85,772
Project Manager, TACCIMS ³	897	Sept. 13, 1994	360,172	78,000
Software Development Center, Fort Huachuca	651	Mar. 18, 1994	183,665	1,941
	778	June 28, 1994	41,778	210,542
	792	July 26, 1994	21,522	529,646
	795	July 26, 1994	65,536	22,592
	988	Sept. 22, 1994	2,162	n/a ²
Topographic Engineering Center	621	Feb 1, 1994	195,940	414,665
	701	May 20, 1994	70,152	172,926
	708	May 23, 1994	260,214	208,171
	911	Sept. 22, 1994	127,130	137,224
	952	Sept. 22, 1994	153,874	86,030
	976	Sept. 22, 1994	230,732	196,134
Navy				
Marine Corps Systems Command	985	Sept. 22, 1994	107,205	580,000
Marine Forces Pacific	895	Sept. 13, 1994	156,196	295,309

See footnotes at the end of the table.

**Appendix E. DoD Economy Act Orders Placed Through the National
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<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Air Force				
1912th Computer Systems Group	599	Feb. 1, 1994	405,281	n/a ²
	937	Sept. 22, 1994	515,128	n/a ²
411 Test Wing Edwards Air Force Base	622	Feb. 1, 1994	97,637	196,000
480 Intelligence Group, Langley Air Force Base	704	May 10, 1994	58,122	49,851
	737	June 9, 1994	414,109	130,553
	742	June 10, 1994	193,505	375,482
7th Communication Group	949	Sept. 22, 1994	293,206	60,064
Air Combat Command, Langley Air Force Base	779	June 28, 1994	80,230	43,940
Air Combat Command, Studies and Analysis	899	Sept. 22, 1994	92,773	200,000
497th Intelligence Group	973	Sept. 22, 1994	54,266	60,265
Aeronautical Systems Center	686	May 5, 1994	95,627	n/a ²
	983	Sept. 22, 1994	268,509	129,176
Electronic Systems Command	685	May 5, 1994	46,053	267,000
	810	Aug. 16, 1994	94,905	63,672
	811	Aug. 16, 1994	58,306	94,905
European Command	716	May 26, 1994	202,363	136,243
	731	May 3, 1994	425,692	n/a ²
	805	Aug. 16, 1994	168,987	n/a ²
	945	Sept. 22, 1994	81,607	102,818
	684	Apr. 19, 1994	264,841	368,384
	989	Sept. 22, 1994	2,178	n/a ²
Intelligence Agency	735	June 9, 1994	80,943	96,792
Intelligence Warfare Center	666	Mar. 25, 1994	160,000	n/a ²
	687	May 5, 1994	50,000	95,745
	715	June 9, 1994	134,885	n/a ²
	775	June 27, 1994	384,444	n/a ²
	784	June 30, 1994	60,389	312,004

See footnotes at the end of the table.

Appendix E. DoD Economy Act Orders Placed Through the National Photographic Interpretation Center Contracts for FYs 1994 and 1995

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Intelligence Warfare Center	893	Sept. 13, 1994	614,350	196,300
	894	Sept. 13, 1994	338,908	615,796
	960	Sept. 22, 1994	100,186	85,016
	978	Sept. 22, 1994	99,109	n/a ²
Space Command Strategic Air Command	642	Mar. 11, 1994	207,270	155,064
	788	June 30, 1994	999,252	1,537,153
	944	Sept. 22, 1994	146,063	755
	969	Sept. 22, 1994	315,393	194,027
Studies and Analysis Group	667	Mar. 25, 1994	117,726	160,000
	766	July 26, 1994	130,058	150,000
	939	Sept. 22, 1994	104,655	990,235
	689	May 5, 1994	548,674	62,117
Technical Applications Center	892	Sept. 22, 1994	195,939	4,073
	896	Sept. 13, 1994	71,991	162,000
	947	Sept. 2, 1994	146,888	211,950
	948	Sept. 22, 1994	60,064	147,550
Pacific Command	709	June 3, 1994	440,989	261,000
	776	June 28, 1994	154,676	23,695
	815	Sept. 13, 1994	322,735	91,213
	816	Sept. 16, 1994	358,985	323,585
Air Mobility Command, Scott Air Force Base	950	Sept. 16, 1994	356,666	295,760
	757	June 22, 1994	295,193	n/a ²
	967	Sept. 22, 1994	98,688	1,655,000
	968	Sept. 22, 1994	193,706	25,008
Detachment 2 Space and Missile Systems Command, Onazuka Air Force Base, Edwards Air Force Base F15 Radar Squadron, Warner Robins Air Force Base	791	June 30, 1994	527,889	66,785
	790	July 26, 1994	66,775	46,500
	655	Mar. 18, 1994	62,751	76,484

See footnotes at the end of the table.

**Appendix E. DoD Economy Act Orders Placed Through the National
Photographic Interpretation Center Contracts for FYs 1994 and 1995**

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
National Air Intelligence Center	741	June 10, 1994	371,765	25,000
	787	June 30, 1994	3,707,867	2,400,000
	964	Sept. 22, 1994	71,651	58,337
	975	Sept. 27, 1994	2,146,784	62,825
	93	Nov. 1, 1994	439,769	439,806
Robins Air Force Base	662	Mar. 25, 1994	205,203	448,154
Rome Labs	659	Mar. 24, 1994	27,596	29,354
Rome Labs Technology Applications Office	653	Mar. 18, 1994	59,711	8,110
Standard Systems Group, Gunter	683	Apr. 19, 1994	356,278	210,666
	691	May 19, 1994	1,986,843	30,521
	698	May 23, 1994	2,758,475	116,780
	738	June 9, 1994	118,223	415,062
	777	June 28, 1994	197,751	156,418
	942	Sept. 22, 1994	2,226,026	219,245
	958	Sept. 22, 1994	85,016	504,473
	981	Sept. 22, 1994	85,772	266,232
	763	June 22, 1994	14,129	57,651
Technology and Industrial Support				
Wright Laboratory, Eglin Air Force Base	650	Mar. 14, 1994	214,177	208,975
Wright Laboratory, Wright-Patterson, Air Force Base	654	Mar. 18, 1994	76,315	60,000
	664	Mar. 25, 1994	4,999,829	2,722
	688	May 5, 1994	62,069	50,000
Unified Commands				
European Command	974	Sept. 22, 1994	62,825	55,118
	769	June 6, 1994	1,370,029	134,402
Forces Command	806	Aug. 16, 1994	106,235	170,668
	809	Aug. 16, 1994	63,672	35,328

See footnotes at the end of the table.

Appendix E. DoD Economy Act Orders Placed Through the National Photographic Interpretation Center Contracts for FYs 1994 and 1995

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Forces Command	970	Sept. 22, 1994	141,424	315,884
	697	May 1, 1994	108,582	1398,474
Central Command	699	May 19, 1994	172,926	2,758,532
	707	May 23, 1994	208,157	n/a ²
Special Operations Command	736	June 9, 1994	130,553	52,276
	966	Sept. 22, 1994	1,654,235	66,423
	717	May 25, 1994	99,048	215,000
	733	June 9, 1994	98,656	425,692
	739	June 9, 1994	24,655	51,666
	782	June 30, 1994	1,185,568	n/a ²
	783	June 30, 1994	312,004	1,185,988
	796	Aug. 10, 1994	335,409	68,588
	807	Aug. 16, 1994	194,141	n/a ²
	955	Sept. 22, 1994	196,439	66,178
Defense Agencies Defense Information Systems Agency	961	Sept. 22, 1994	49,057	100,826
	963	Sept. 22, 1994	54,818	29,317
	984	Sept. 22, 1994	578,132	268,907
	743	Aug. 16, 1994	115,375	193,505
	767	June 22, 1994	2,450,075	128,000
	803	Aug. 10, 1994	128,752	335,409
	808	Aug. 16, 1994	19,872	194,145
	931	Sept. 16, 1994	119,534	5,447
	940	Sept. 16, 1994	576,787	109,182
	951	Sept. 22, 1994	116,883	356,704
Defense Information Systems Agency-Europe	954	Sept. 22, 1994	157,847	111,585
	990	Oct. 20, 1994	199,936	n/a ²
	15	Dec. 12, 1994	441,364	441,909
	740	Apr. 12, 1994	20,289	26,326

See footnotes at the end of the table.

**Appendix E. DoD Economy Act Orders Placed Through the National
Photographic Interpretation Center Contracts for FYs 1994 and 1995**

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Defense Information Systems Organization	718	May 25, 1994	2,047,762	101,034
	768	June 22, 1994	134,402	2,737,138
	786	June 30, 1994	2,938,567	60,390
	980	Sept. 22, 1994	278,974	19,634
Defense Intelligence Agency	979	Sept. 27, 1994	3,552	n/a ²
	898	Sept. 22, 1994	199,497	367,109
	953	Sept. 22, 1994	111,585	n/a ²
Defense Logistics Agency	938	Sept. 22, 1994	984,236	515,128
Defense Nuclear Agency	656	Mar. 18, 1994	136,582	137,126
	660	Mar. 25, 1994	448,154	30,000
	971	Sept. 22, 1994	225,471	143,226
Joint Task Force 4	941	Sept. 22, 1994	218,606	618,198
Unknown	721	May 26, 1994	6,016	n/a ²
Unknown	749	June 24, 1994	3,575	n/a ²
Unknown	844	Aug. 10, 1994	521	n/a ²
Unknown	986	Sept. 22, 1994	29,317	n/a ²
Unknown	14	Dec. 8, 1994	n/a ²	n/a ²
Subtotal	171		\$69,154,620	\$43,995,375
1995				
Army				
Nuclear and Chemical Agency	72	Feb. 21, 1995	2,103,913	2,252,650
	52	Mar. 3, 1995	208,708	210,902
	330	May 15, 1995	n/a ²	814,850
Information System Program Manager	80	Mar. 7, 1995	87,126	93,722
Nuclear and Chemical Agency	81	Mar. 9, 1995	243,600	253,863
Project Manager, TACCIMS ³ Fort Monmouth, NJ	301	Mar. 30, 1995	63,466	63,468

See footnotes at the end of the table.

Appendix E. DoD Economy Act Orders Placed Through the National Photographic Interpretation Center Contracts for FYs 1994 and 1995

<u>DoD Component</u>	<u>Economy Act Order Number</u>	<u>Date</u>	<u>Delivery Order Amount</u>	<u>MIPR¹ Amount</u>
Nuclear Agency	305	Apr. 3, 1995	597,507	597,508
Air Force				
Plans and Programs-Studies and Analysis	56	Jan. 27, 1995	120,001	126,975
Squadron, Langley Air Force Base	300	Mar. 30, 1995	203,107	203,175
Technical Applications Center	302	Mar. 30, 1995	992,967	993,000
	316	Apr. 20, 1995	244,969	245,000
National Air Intelligence Center,				
Wright-Patterson Air Force Base	303	Mar. 31, 1995	813,670	814,074
	304	Mar. 31, 1995	67,800	67,800
	320	Apr. 27, 1995	28,696	28,700
Unified Command				
Commander in Chief, Pacific Command	318	May 15, 1995	292,534	292,534
U.S. Strategic Command	62	Mar. 13, 1995	305,311	305,539
	87	Mar. 13, 1995	199,813	199,945
	88	Mar. 13, 1995	1,316,780	95,071
Defense Agencies				
Defense Information Systems Agency	53	Jan. 24, 1995	4,282,660	4,346,484
	84	Mar. 24, 1995	215,259	230,741
	85	Mar. 8, 1995	10,779,723	10,793,701
	323	May 2, 1995	221,591	226,762
Defense Information Systems Agency-Europe	55	Jan. 24, 1995	254,739	260,000
Subtotal	23		\$23,643,940	\$23,516,464
Total	194		\$92,798,560	\$67,511,839 ⁴

¹Military Interdepartmental Purchase Request.

²Not available.

³Theater Automated Command and Control Information Management Systems.

⁴Total military interdepartmental purchase request is less than total delivery order amount.

Appendix F. Assistant Secretary of Defense (Command, Control, Communications and Intelligence) Memorandum



COMMAND, CONTROL,
COMMUNICATIONS
AND
INTELLIGENCE

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-3040

September 11, 1995

MEMORANDUM FOR UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF INFORMATION SYSTEMS (C4), ARMY
ASSISTANT SECRETARY OF THE NAVY (RESEARCH,
DEVELOPMENT AND ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE (ACQUISITION)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF DOD FIELD ACTIVITIES
DIRECTOR, JOINT STAFF

SUBJECT: DoD Orders Against National Photographic Interpretation Center (NPIC) Contract
with Sun Microsystems

The Assistant Secretary of Defense (C3I) and the Department of Defense Inspector General (DoDIG) have agreed on the following conditions for the continued use of the current National Photographic Interpretation Center (NPIC) contract with Sun Microsystems by DoD components:

a. For the approximately 20 DoD orders currently being held by NPIC at DoD request, and any additional orders received by NPIC this month:

- (1) DoD components will forward a copy of their "best value" analysis that demonstrates why use of the NPIC contract is in the Department's best interest, to the ODASD(C3I Acquisition) poc below. Components must also provide a copy of their approved analysis to NPIC, which may then release the order if it is otherwise acceptable to NPIC. In accordance with SECDEF guidance, this analysis should be properly approved by: (1) an SES, Flag, or General Officer in the requesting agency, or the commander if there is no such position (agencies subject to Federal Acquisition Regulations (FAR)); or, (2) the Senior Procurement Executive responsible for agency procurement (agencies not subject to the FAR). The analysis should already show that the ordered supplies or services cannot be provided as conveniently and cheaply by contracting directly with the private source.

Appendix F. Assistant Secretary of Defense (Command, Control, Communications and Intelligence) Memorandum

- (2) If the analysis has not been approved as of the date of this message, components must also consider the Sun prices and contract terms for procured items in the following contracts (those available for component ordering) before completing the analysis:

<u>Number</u>	<u>Contractor</u>	<u>POC</u>	<u>Phone No</u>
(a) MDA 908-92-D-1511	Centel	C.E. Edwards	(202) 373-2834
(b) MDA 908-92-D-1512	DEC	C.E. Edwards	(202) 373-2834
(c) MDA 908-92-D-1513	Sun	C.E. Edwards	(202) 373-2834
(d) N66032-93-D-0022	Cordant	Ashley Eanes	(202) 433-2308

- (3) My staff will review the analyses and provide a copy to the DoDIG for their information.

b. For orders approved by DoD components October 1, 1995, or later:

- (1) DoD Components must comply with DODI 4000.19, Interservice and Intragovernmental Support, August 9, 1995; and the FAR, if applicable.
- (2) Components must consider the Sun prices and terms in the contracts listed in 1.b. above whenever those contracts are available to the component to order the required items or services.
- (3) Records of component approvals must be preserved by the agency and made available to the DoDIG upon request for any subsequent audits.

Request that the Director of the Joint Staff immediately forward this memorandum to the Commanders in Chief.

The ODASD(C3IA) poc for this action is Rex Bolton, voice mail 703-604-1472; FAX 703-614-1873. Mr. Bolton's EMAIL Address is: rex.bolton@osd.mil.


Emmett Paige, Jr.

Appendix G. Summary of Potential Benefits Resulting From Audit

Recommendation Reference	Description of Benefit	Amount and Type of Benefit
1.a.	Economy and Efficiency. Avoids unnecessary use of Economy Act orders to support DoD projects.	Undeterminable funds put to better use. Amount of funds is undeterminable because total number of Economy Act orders in process are unknown. Future funds would be put to better use after reliance on the NPIC contracts ceases.
1.b.	Economy and Efficiency. Cancels unfilled orders to NPIC contract and obtains refunds.	Undeterminable funds put to better use. Amount of funds is undeterminable because total number of Economy Act orders issued and not filled is unknown.
1.c.	Compliance with Laws and Regulations. Determines responsibility for noncompliance.	Nonmonetary.
2.a	Economy and Efficiency. Determines the amount of overpayment for computer equipment.	Undeterminable funds put to better use will be determined by the DoD Components.
2.b.	Economy and Efficiency. Recovers overpayment of funds for computer equipment.	Nonmonetary. The amount of funds to be recovered will be determined by implementing Recommendation 2.a.

Appendix G. Summary of Potential Benefits Resulting From Audit

Recommendation Reference	Description of Benefit	Amount and Type of Benefit
3.	Compliance with Laws and Regulations and Management Controls. Implements the February 8, 1994, Secretary of Defense memorandum and establishes controls over the use of Economy Act orders.	Nonmonetary.
4.a.	Economy and Efficiency. Allows DoD Components to obtain best value in procuring computer equipment.	Undeterminable funds put to better use. Amount of funds will be determined by the DoD Components.
4.b.	Economy and Efficiency. Allows DoD Components to procure computer equipment directly from contractor.	Undeterminable funds put to better use.

Appendix H. Organizations Visited or Contacted

Office of the Secretary of Defense

Office of the Under Secretary of Defense for Acquisition and Technology,
Washington, DC
Office of the Under Secretary of Defense (Comptroller), Washington, DC
Office of the Assistant Secretary of Defense (Command, Control, Communications and
Intelligence), Washington, DC
Office of the Assistant Secretary of Defense (Health Affairs), Washington, DC

Joint Staff

Office of the Director, (J-6), Command, Control, Communication and Computer
Systems, Washington, DC

Department of the Army

Office of the Assistant Secretary of the Army (Research, Development and
Acquisition), Washington, DC
Army Audit Agency, Alexandria, VA

Department of the Navy

Office of the Assistant Secretary of the Navy (Research, Development and
Acquisition), Washington, DC
Office of the Comptroller, Department of the Navy, Washington, DC
Naval Audit Service, Arlington, VA
Naval Information Systems Management Center, Arlington, VA
Naval Ships Parts Control Center, Mechanicsburg, PA
Naval Computer and Telecommunications Station, New Orleans, LA
Office of the Marine Corps Systems Command, Quantico, VA

Department of the Air Force

Office of the Assistant Secretary of the Air Force (Acquisition), Washington, DC

Unified Commands

U.S. Central Command, MacDill Air Force Base, FL
U.S. Special Operations Command, MacDill Air Force Base, FL

Appendix H. Organizations Visited or Contacted

Defense Agencies

Defense Information Systems Agency, Arlington, VA
Defense Intelligence Agency, Washington, DC
Defense Logistics Agency, Alexandria, VA
Defense Mapping Agency, Fairfax, VA
Joint Logistics Systems Center, Wright-Patterson Air Force Base, OH

Non-Defense Federal Organizations

National Photographic Interpretation Center, Washington, DC
Central Intelligence Agency, Vienna, VA
General Services Administration, Washington, DC
Federal Systems Integration and Management Division, Arlington, VA

Non-Government Organization

Cordant Incorporated, Vienna, VA

Appendix I. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition and Technology
Director, Defense Logistics Studies Information Exchange
Under Secretary of Defense for Policy
Under Secretary of Defense (Comptroller)
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)
Assistant Secretary of Defense (Economic Security)
Assistant Secretary of Defense (Health Affairs)
Principal Deputy Under Secretary of Defense (Acquisition and Technology)
Deputy Under Secretary of Defense (Acquisition Reform)
Director, Defense Procurement
Assistant to the Secretary of Defense (Public Affairs)

Joint Staff

Director, Joint Staff

Department of the Army

Assistant Secretary of the Army (Research, Development, and Acquisition)
Auditor General, Department of the Army

Department of the Navy

Commandant of the Marine Corps
Assistant Secretary of the Navy (Financial Management and Comptroller)
Assistant Secretary of the Navy (Research, Development, and Acquisition)
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Assistant Secretary of the Air Force (Acquisition)
Auditor General, Department of the Air Force

Appendix I. Report Distribution

Unified Commands

Commander in Chief, U.S. European Command
Commander in Chief, U.S. Pacific Command
Commander in Chief, U.S. Atlantic Command
Commander in Chief, U.S. Central Command
Commander in Chief, U.S. Special Operations Command
Commander in Chief, U.S. Transportation Command
Commander in Chief, U.S. Strategic Command

Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Intelligence Agency
Director, Defense Information Systems Agency
Director, Defense Logistics Agency
Director, Defense Mapping Agency
Director, National Security Agency
Inspector General, National Security Agency
Director, Defense Nuclear Agency

Non-Defense Federal Organizations and Individuals

General Services Administration
Office of Federal Procurement Policy, Office of Management and Budget
Technical Information Center, National Security and International Affairs Division,
General Accounting Office
Inspector General, Central Intelligence Agency

Chairman and ranking minority member of each of the following congressional committees and subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Subcommittee on Acquisition and Technology, Committee on Armed Services
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on National Security, Committee on Appropriations
House Committee on Government Reform and Oversight
House Subcommittee on National Security, International Affairs, and Criminal Justice, Committee on Government Reform and Oversight
House Committee on National Security
House Permanent Select Committee on Intelligence

Part III - Management Comments

Under Secretary of Defense for Acquisition and Technology Comments

Final Report
Reference



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300



29 AUG 1995

MEMORANDUM FOR INSPECTOR GENERAL

SUBJECT: Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment (Project No. 5RE-0049.00)

The subject draft report recommends that the DoD establish aggressive milestones for completion of a DoD Instruction that incorporates requirements in the February 8, 1994, Secretary of Defense memorandum, "Use of Orders Under the Economy Act". These requirements have been included in the reissuance of DoD Instruction 4000.19 (August 9, 1995). The new Instruction will be will be effective October 1, 1995.

The Instruction also addresses statutory requirements for Economy Act orders, including establishing a process for tracking agreements for goods and services procured under contracts entered into or administered by another agency.

Robert E. Bayer
Deputy Assistant Secretary of Defense
Installations



Renumbered
as Recommendation
3.a.

Renumbered
as Recommendation
3.b.

Assistant Secretary of Defense (Health Affairs) Comments



HEALTH AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

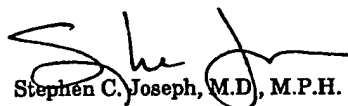
WASHINGTON, D. C. 20301-1200

20 OCT 1995

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING

SUBJECT: Quick-Reaction Report on Audit of DoD Components' Use of the
National Photographic Interpretation Center Contract to
Procure Computer Equipment (Project No. 5RE-00049), July 28,
1995

In response to the subject report attached are the Health Affairs
comments. If you have any questions please contact Mr. Ron Richards at
(703) 614-5679.


Stephen C. Joseph, M.D., M.P.H.

Attachment:
As stated

Assistant Secretary of Defense (Health Affairs) Comments

Final Report
Reference

**OIG REPORT No. 5RE-0049 (DRAFT)
DoD USE OF ECONOMY ACT ORDERS ISSUED TO
A CENTRAL INTELLIGENCE AGENCY COMPONENT**

Although there are no specific findings against OCHAMPUS, the following management comments are offered to assist in developing a response:

Recommendation 1.a - The ASD(HA) stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-00 for Sun Microsystems Federal, Incorporated, computer equipment.

ASD(HA) Response - OCHAMPUS has stopped issuing Economy Act orders with the NPIC for computer equipment under Sun Microsystems Federal, Inc. contract No. 95-K216600-000.

Recommendation 1.b - The ASD(HA) cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

ASD(HA) Response - OCHAMPUS has no unfilled orders under contracts 95-K216600-000 nor 87-362300-00 for Sun Microsystems Federal computer equipment.

Recommendation 1.c - The ASD(HA) review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

ASD(HA) Response - The Director, OCHAMPUS has reviewed the actions of officials responsible for Economy Act orders for Sun Microsystems Federal, Inc. computer equipment and has issued guidance to the staff that he will be the final approval authority for any future Economy Act actions processed by OCHAMPUS.

Recommendation 1.d - The ASD(HA) determine the actual cost of computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

ASD(HA) Response - The actual cost of computer equipment purchased by OCHAMPUS without rebates, refunds or discounts was \$3, 518, 500. 00. OCHAMPUS has no documentation which indicates that any refunds have been provided to OCHAMPUS by vendor nor NPIC.

Redirected
and
renumbered
as Recommendation
2.a.

Assistant Secretary of Defense (Health Affairs) Comments

Final Report
Reference

Recommendation 1.e. - The ASD(HA) obtain a refund from the National Photographic Interpretation Center for benefits accrued because of DoD Components' orders.

ASD(HA) Response - OCHAMPUS-RM has taken action to obtain the rebates and refunds addressed in audit findings. RM has contacted the DoDIG program office to identify a point of contact at the NPIC to establish a process for the filing of an OCHAMPUS claim for refunds. OCHAMPUS has started a review process to capture the information required by NPIC to support the claim. At this time, without specific rebate information from NPIC, OCHAMPUS is unable to estimate the rebate amount due OCHAMPUS. Closure of this action is expected by December 31, 1995.

Redirected
and
renumbered
as Recommendation
2.b.

Department of the Army Comments



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH DEVELOPMENT AND ACQUISITION
163 ARMY PENTAGON
WASHINGTON DC 20310-0163



REPLY TO
ATTENTION OF
SARD-PP

1 SEP 1995

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE,
ATTN: OAIG(AUD), 400 ARMY NAVY DRIVE,
ARLINGTON, VA 22202-2884

SUBJECT: Quick-Reaction Report on Audit of DOD
Components' Use of the National Photographic
Interpretation Center Contract to Procure
Computer Equipment (Project No. 5RE-0049)

Reference DoD IG memorandum, July 28, 1995, subject
as above and the U. S. Army Audit Agency Memorandum,
August 4, 1995, subject as above.

The Army concurs with the Inspector General's
findings that Army activities placing Economy Act orders
with the Central Intelligence Agency's National
Photographic Interpretation Center (NPIC) between 1988
and April 1995, may have been improperly overcharged.

We disagree, however, with many of the assumptions,
findings, conclusions and recommendations of this draft
Quick Reaction Report as set forth below and in the
enclosure.

Some of the key areas of disagreement include the
following:

- the unsupported conclusion that the prices paid
by Army activities were not "fair and reasonable" at the
time of acquisition by non-procurement personnel, all
factors considered;
- the assumption in the report that orders placed
directly with Sun Microsystems are to be considered
Economy Act orders;
- the recommendation that all "unfilled" orders
should be cancelled;
- the recommendation that the Army should identify
any "rebates" due the Army from CIA/NPIC and request
refunds.

The problems identified in this report are somewhat
different from those described in the ten prior Inspector

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General, DoD, reports on the use of the Economy Act to acquire goods and services outside the Department of Defense. As we have noted in prior responses, the Army has implemented a number of corrective actions in attempting to eliminate unauthorized Economy Act transfers and contract offloading. These initiatives include:

a. The ASA(RDA) message dated December 26, 1991, that alerted all Army activities to the abuses of Economy Act authority and reinforced the requirement in the Defense Federal Acquisition Regulation Supplement (DFARS) for a contracting officer to sign Economy Act determinations. The message also directed that the budget or resource management official who certifies to the funds cited on a Military Interdepartmental Purchase Request (MIPR) to a non-DoD agency under authority of the Economy Act must ensure that an Army contracting officer has made the required determination and that it has been reviewed by counsel.

b. Change 2 to Army Regulation 37-1, Army Accounting and Fund Control, dated February 18, 1992, which implemented the direction in the ASA(RDA) message concerning the responsibilities of funds certifying officials.

c. A revision to AR 70-1 to reiterate the same policy to the Army's acquisition managers. AR 70-1 is the Army's implementation of DoD Directive 5000.1, DoD Instruction 5000.2, and DoD Manual 5000.2-M.

d. SARD-PP Policy Memorandum to Army Commands, contracting activities and HQ Staff agencies, dated April 21, 1993, subject: Contract Offloading to Non-Defense Agencies.

e. SFRD-KP Memorandum to all Army Commands, Program Executive Offices, and HQ Staff agencies, and contracting offices, dated August 4, 1994, subject: Acquisition Letter 94-5, Economy Act Orders Outside DoD. This memorandum formally implemented section 844 of the FY94 Defense Authorization Act and the implementing memorandum from Secretary Perry dated February 8, 1994. It also delegated approval authority, provided issues and facts to be addressed in Economy Act Determinations and findings, and provided related DFARS changes.

f. Implementing procedures issued by nearly every Army contracting activity.

Department of the Army Comments

-3-

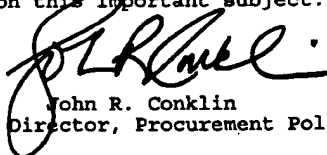
g. Making this a special interest item in every Procurement Management Review, and requesting follow-up assessment reviews by the Army Audit Agency.

The report provides only sketchy information on the actions, and then with only CIA designations (as opposed to Army MIPR Numbers and sending offices). This office requested a list of all Army MIPRs and points of contact with phone numbers, which was never received, although some information regarding one activity was faxed on August 17, 1995. Copies of the pertinent memorandums of understanding would also be helpful.

As we have noted in previous responses to prior reports, the Economy Act legislative authority is based in part on assumed good faith between agencies (witness the language in 31 USC 1535(b) that bills from the receiving agency are not subject to audit or certification in advance of payment). The receiving agency has the same fiduciary duty to protect the public fisc and uphold trust as the agency that entrusts their appropriated funds to them. In this case, it appears that the CIA, which generally does not charge a fee for Economy Act support, found a way to improperly gain some benefit from the Sun contract actions indirectly (the rebates and discounts earned, but apparently not pro rata apportioned back to their customers). This is a matter which needs to be taken up with the CIA and NPIC, and possibly GAO, not the Services and Defense components.

That said, the fact that some potential, large-quantity non-cash rebates were negotiated by the CIA does not mean that the prices paid by DoD components was not fair and reasonable, when compared with other indicia (catalog prices, sales to other customers, qualitative and cost-benefit comparison with other OEM's equipment, etc.).

The enclosed additional detailed comments track with the Draft Quick Reaction Report. Thank you for the opportunity to comment on this important subject.



John R. Conklin
Acting Director, Procurement Policy

Enclosure
CF:
SAAG-PMF-E
SFRD-KP

**DETAILED COMMENTS ON DOD IG QUICK-REACTION REPORT:
DOD COMPONENTS USE OF THE NATIONAL PHOTOGRAPHIC
INTERPRETATION CENTER CONTRACT TO PROCURE COMPUTER
EQUIPMENT (Project No. 5RE-0049)**

Our comments are based on the limited information provided in the draft report. Additional and more specific information will be required for the Army to furnish a more substantive response.

I. **Executive Summary: p.i:** It is not clear what is meant by "...may not be the best value for DoD." Is this referring to the future, the past, or both? Is the report implying that DoD activities may have gotten a better deal from Sun if they had all been aware of each other's current and future requirements (since 1988) and banded together to make a deal with Sun. If so, we agree. However, that was not realistic at the time nor is it realistic in hind sight. In a sense the CIA's National Photographic Interpretation Center (NPIC) created instruments to serve exactly that purpose (i.e., to serve the requirements of the national intelligence community), and DoD Intelligence activities, whose requirements were apparently considered in the contract negotiations, were to be their customers.

It is not clear how these NPIC IDIQ contracts differ in substance from similar instruments throughout the Department of Defense and GSA ADP Schedules? Is there evidence that before ordering from NPIC (or in some cases directly from Sun), that no checking was done by the requesting/requiring activities to both validate requirements and validate that the value received for the funds expended was reasonable? Since review of individual ordering activities was not conducted, conclusions about the propriety and reasonableness of historical transactions is presumptuous. The concept of overall "best value" to the DoD must embody the notion that there is a significant cost (dollars and time - which has a cost value) for preparation and execution of individual competitive procurement actions. That concept, after all, is what lies behind the establishment of GSA Schedules and DoD-wide IDIQ contracts and many new authorities under the Federal Acquisition Streamlining Act of 1994. Without review of the temporal and situational context of each action, the global, after-the-fact challenge by the IG is inappropriate.

p.ii: It is not clear what is meant by the statement "There continue to be material management control weaknesses in the DoD use of Economy Act orders." (emphasis added)

Department of the Army Comments

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II. RECOMMENDATIONS AND RESPONSES/ACTIONS TAKEN:

RECOMMENDATION: 1a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

RESPONSE: Concur. The Army will notify its Principal Assistants Responsible for Contracting, not later than September 15, 1995, to stop issuing Economy Act Orders to NPIC for use of the Sun contract for the rest of the fiscal year.

RECOMMENDATION: 1b. Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

RESPONSE: Nonconcur. Orders placed on the Sun contract by NPIC personnel can only be terminated for convenience by the NPIC contracting officer. MIPRs were sent to CIA/NPIC which became the basis for contract orders placed by NPIC personnel. It is too late in the fiscal year to for the Army to unilaterally cancel all outstanding orders and to attempt to reprocur those required items. Many of the Economy Act orders placed may have been appropriate and reasonable, per se, notwithstanding CIA practices. Finally, the Army may incur termination settlement costs for work in progress (either at Sun or costs incurred by NPIC). In addition, the Army would likely not benefit from any deobligation of funds from those orders at this late date. To forfeit funds in this manner would not serve the best interests of the government or the taxpayer.

RECOMMENDATION: 1c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

RESPONSE: Nonconcur. Officials who have knowingly exceeded their authority and violated the Economy Act and implementing regulations will be disciplined as deemed appropriate by their commanders. The report does not, however, identify activities or individuals that have not complied with law. Without the identification of specific violations by Army activities and officials, we are unable to furnish a more meaningful response.

Department of the Army Comments

Final Report
Reference

-3-

RECOMMENDATION: 1d. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the NPIC, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

RESPONSE: Nonconcur in part. A request to the CIA for a complete explanation/rationalization should come from a high level Defense official on behalf of the whole Department if the IG is unable to get a satisfactory response. If the Inspector General, DoD, was unable to learn this information in any meaningful way from the CIA/NPIC how are the 17 Defense components to derive these values? This information must come from the contracting activity responsible for the contract, including ordering and administration. We are not privy to NPICs price and cost analysis documentation to include audits, trade-off analyses, and negotiation memorandums. Without this information we are unable to comply.

RECOMMENDATION: 1e. Obtain a refund from the NPIC for benefits accrued because of the DoD Components' orders.

RESPONSE: Nonconcur. Even if such a number could be calculated, it is unclear what is meant by "a refund". Is it equipment or dollars? The report cites contract provisions for annual credit as follows: "the Government will obtain an equipment credit for its own use during the following annual period (\$20M-\$30M = 1%...). This credit is to be in the form of equipment received [in the following year] at no cost to the government, and may not be a cash credit." [and may not roll over to the next year] Since it is an equipment credit, is the IG stipulating that DOD ask NPIC for some share of this equipment even though the equipment may not be required by the Army?

Since it is so late in the FY, any prompt payment discount (if not already expired) recouped could not be obligated in a timely fashion under end of FY constraints and as a result would not be beneficial to the Army. Although recoupment of a pro rata share of prompt payment discount funds may be technically correct, if not already calculated in unit prices, it may involve funds that may be unusable to the Army. As a result, it becomes a pointless exercise without practical benefits in relation to the cost and administrative effort associated with recoupment. Since the Army does not have the orders and payment vouchers at its disposal for review, we are unable to determine what portion of the estimated equipment and prompt payment savings (\$14.7M) are the Army's share.

Redirected
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as Recommendation
2.a.

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as Recommendation
2.b.

Department of the Army Comments

Final Report
Reference

-4-

Normally, prompt payment discounts are taken before payment and not as a refund. This would mean that the CIA may not have expended all Army funds provided under MIPR for the equipment or services acquired from Sun. Recommend the DOD IG further coordinate this issue with the DoD Comptroller or DFAS. If, as implied by the IG, the CIA has improperly augmented its appropriations with "kickbacks" from Sun, this should be investigated by the CIA Inspector General and GAO.

RECOMMENDATION: 2a. "We recommend that the Under Secretary of Defense for Acquisition and Technology accelerate implementation of the Secretary of Defense memorandum of February 8, 1994, to revise DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to include the requirements of the Defense Authorization Act for FY1994 and the February 8, 1994, Secretary of Defense memorandum, "Use of Orders Under the Economy Act."

Army Response: Although this recommendation is addressed to USD(A&T), and a change to DoDI 4000.19 has already been issued, we persist in our belief (expressed in our response to IG, DoD, report on DoE (Project ICH-0033)) that this Instruction (unfortunately cited in the February 8, 1995, SECDEF memo) was not, and is not, the proper vehicle to implement appropriate DoD-wide guidance and direction on the Economy Act when used for acquisition vs. support. Guidance on the DoD tracking system cited in Recommendation 2.b. has yet to be formulated by the DoD finance community.

Additional Comments on Factual Accuracy:

p.2: The first footnote at the bottom of the page is technically inaccurate or misleading. The footnote defines an Economy Act order without mentioning that an order must go to the receiving agency; e.g., "An Economy Act order is an agency order to another agency for goods and services that the receiving agency can provide or furnish by contract."

p.10: ("Expertise on Contracting with Sun Microsystems") The paraphrasing of the Secretary of Defense February 8, 1994, memorandum, focusing on "contracting capability" is inaccurate and inappropriate. It represents a slightly garbled version of the language in paragraph (b) (2) (B) of section 844.

p.11: An Economy Act transfer is not a procurement transaction. It is often accomplished in lieu of one. There is no requirement in the law for a "market survey" or an elaborate hypothetical cost-benefit analysis. There must be allowed a reasonable expectation of competence and fair dealing by the receiving/contracting agency; and that agency must be judged on their practices.

Renumbered
as Recommendation
3.a.

Page 9

Page 10

-5-

p.12/13: To the extent that Defense activities placed contractually binding orders directly with Sun and did not MIPR funds to NPIC, those orders are not (and cannot be considered to be) Economy Act orders, no more than agency orders against GSA Schedule contracts, or Navy orders against the AF Desktop IV IDIQ contract. The key is not whose contract it is, but are funds transferred to the account, and for the use, of another agency under the special augmentation authority of the Economy Act. The report does not provide the contract language that allowed direct ordering by non-NPIC/CIA activities. Even so, this does not mean that the CIA is off the hook if they improperly redacted parts of the contract to hide certain terms from ordering activities (e.g., DISA).

Pages 11
and 12

Department of the Navy Comments



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20380-1000

SEP 06 1995


MEMORANDUM FOR THE DEPARTMENT OF DEFENSE ASSISTANT INSPECTOR
GENERAL FOR AUDITING

Subj: DRAFT REPORT "DOD COMPONENTS' USE OF THE NATIONAL
PHOTOGRAPHIC INTERPRETATION CENTER CONTRACT TO PROCURE
COMPUTER EQUIPMENT" (PROJECT NO. SRE-0049.00)

Ref: DODIG memo of 28 July 1995

Encl: (1) DON Response to Draft Audit Report

Enclosure (1) is the DON response to the subject draft audit report. We generally agree with the draft report findings and recommendations, except to the extent that they apply Economy Act requirements to orders placed directly with a contractor, rather than through the National Photographic Interpretation Center. We believe that the Economy Act does not apply to an order for contractor goods or services, properly authorized by statute and regulation, placed by a Navy contracting officer directly under the contract or basic ordering agreement of another agency.


W. C. BOWES
Vice Admiral, U.S. Navy
Principal Deputy

Copy to:
NAVINGEN
PMO-31

Department of the Navy Response
to
DODIG Draft Report of July 28, 1995
on

DoD Components' Use of the National Photographic
Interpretation Center Contract to Procure
Computer Equipment
Project SRE-0049.00

The DON concurs with the findings and body of the report, except
as follows:

Page 13, Line 5:

"Because those Economy Act orders are made by DoD Components
against an NPIC contract (and not a DoD contract) with Sun
Microsystems, the orders are still subject to Economy Act
provisions.

DON Position:

Do not Concur. If orders are placed with a contractor, and not
with a Government agency, the Economy Act is not applicable.
The Economy Act covers only orders between Federal agencies and
major units of those agencies. The Economy Act does not apply to
an order for contractor goods or services, properly authorized by
statute and regulation, placed by a Navy contracting officer
directly under the contract or basic ordering agreement of
another agency.

Recommendation 1.a:

Stop issuing Economy Act orders against National Photographic
Interpretation Center contract 95-K216600-000 for Sun
Microsystems Federal, Incorporated, computer equipment.

DON Position:

Concur in principle. All such orders require ASN(RD&A) approval.
In practice, our review procedures prevented the placing of
orders because of the failure to show that NPIC's contract was
less expensive than alternatives. The additional issues raised
by the report make it still more unlikely that any orders will be
approved in practice. However, if orders with NPIC complied with
law and regulation, including the prohibition on charges in
excess of the actual or estimated cost of contracting and the
requirement that use of the Economy Act be cheaper than issuing a
Navy contract, we would consider it appropriate to approve them.

Page 11

Department of the Navy Comments

Final Report
Reference

Recommendation 1.b:

Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

DON position:

Concur to cancel any unfilled Economy Act orders placed on these contracts.

Recommendation 1.c:

Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

DON position:

Concur.

Recommendation 1.d:

Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

DON position:

Concur. This information will be requested from NPIC.

Recommendation 1.e:

Obtain a refund from the National Photographic Interpretation Center for benefits accrued because of the DoD Components' orders.

DON position:

Concur. DON will request a refund.

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as Recommendation
2.a.

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and
renumbered
as Recommendation
2.b.

Department of the Air Force Comments



OFFICE OF THE ASSISTANT SECRETARY

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



06 SEP 1995

MEMORANDUM FOR DIRECTOR, READINESS AND OPERATIONAL
SUPPORT DIRECTORATE
OFFICE OF THE INSPECTOR GENERAL
DEPARTMENT OF DEFENSE

FROM: SAF/AQC
1060 Air Force Pentagon
Washington DC 20330-1060

SUBJECT: Quick Reaction Report on Audit of DOD Components Use of the National
Photographic Interpretation Center to Procure Computer Equipment (Project No.
5RE-0049.00)

We provide the following comments on your five recommendations:

Recommendation 1a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

Comments. Concur. The audit cites two issues; MIPRs forwarded to NPIC without the knowledge of contracting officials and orders executed against NPIC contracts by contracting officials pursuant to MOUs with NPIC. SAF/AQC will, in concert with FMB, transmit a letter to the field directing contracting officials to terminate the MOUs with NPIC. Also, we will clarify guidance to AFFARS 5317.5 to specify that direct orders issued under the circumstances described in this audit constitute orders under the Economy Act. We contacted all seven Air Force Contracting Offices cited in Appendix D. While five offices had placed centralized orders in accordance with their Memorandum of Understanding (MOU) with NPIC and Sun, two had their agreements in place but did not effect orders.

Recommendation 1b. Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

Comments. Concur. We will request contracting activities terminate orders as is prudent and appropriate.

Department of the Air Force Comments

Final Report
Reference

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as Recommendation
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as Recommendation
2.b.

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Recommendation 1c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

Comments. Concur with Intent. We will direct a performance review of the individuals involved but any personnel action is a commander's decision. Given the discussion cited in the audit over whether centralized orders were a violation of the Economy Act, we believe many of the parties involved acted in good faith.

Recommendation 1d. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the NPIC, including but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

Comments. Concur with Intent. While we do not have a complete list, aggregate data to date for the Air Force offices cited in Appendix D shows the amounts fall far short of the \$20 million in orders needed to qualify for a cash allowance (vice rebate). However, we will work in concert with the cognizant FMs to determine actual costs and any discounts due.

Recommendation 1e. Obtain a refund from NPIC for benefits accrued because of the DOD Components' orders.

Comments. Concur with Intent. See Recommendation 1d comments.

Additional Comments. While mistakes were made, we do not believe additional regulatory guidance is required. A 14 Aug 95 GAO Draft Report "Interagency Contracting Controls Over Contract Off-Loads Being Strengthened, But Implementation Issues Remain", (GAO Code 705071), states that while "some project files lacked required documentation, service guidance to contracting activities was abundant." In our letter to the field, we will emphasize our concerns over the violations of the Economy Act and continue to offer/ provide training material to the major commands in eradicating this material weakness.

Our point of contact is Major Hans J. Jerrell, SAF/AQCO, Commercial (703) 697-1136, DSN 227-1136, or E-MAIL {jerrellh@aqpo.hq.af.mil}.



TIMOTHY P. MALISHENKO, Brig Gen, USAF
Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)

U.S. European Command Comments



HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
Office of the Chief of Staff
APO AE 09128



10 SEP 1995

ECCS

MEMORANDUM FOR DOD Inspector General

SUBJECT: Quick-Reaction Report on the Audit of DOD Components' Use of the National Photographic Interpretation Center (NPIC) Contract to Procure Computer Equipment (Project No. 5RE-0049.00)

1. The following responds to your tasking regarding subject report.
2. Although the HQ EUCOM/J2 has not directly ordered Sun equipment under the subject contract, orders have been made over the last several years on our behalf by J6. J2 has provided Military Interdepartmental Purchase Requests (MIPR's) in support of those orders. The Data Services Center (DSC), formerly a J6 organization, made the NPIC orders on our behalf. DSC was deactivated in 1994 and the billets and positions transferred to the Joint Analysis Center (JAC), RAF Molesworth, UK. The responsibility for purchasing was also transferred to the JAC. Since the transition, the JAC has made some orders under the NPIC contract and those records are available at the JAC. Due to the deactivation and transfer of responsibility from GE to UK; however, records of previous purchases are incomplete.
3. While J2 has not directly ordered under the subject contract, we feel that we have received superior price and performance through NPIC contracts. Pricing was typically one third off list price, below GSA prices and equal to or better than other requirements contracts available to the Command. The acquisition process was streamlined and efficient, greatly reducing the administrative paperwork and support required. The scope and breadth of products and services provided a "one stop environment" again reducing administration costs associated with using multiple contracts. The NPIC contracts are precisely the types of vehicles needed by an OCONUS Command with a high operational tempo like USEUCOM. They provide the cost advantages, responsiveness and flexibility needed to meet changing mission requirements.
4. The following specifically address the DODIG recommendations:
 - a. Re Page 14, 1.a: The JAC has withdrawn three actions that would have otherwise led to Economy Act Orders against the NPIC contracts. The JAC is now reviewing multiple contract vehicles to fulfill those requirements.
 - b. Re Page 14, 1.b: There are no unfilled orders, nor outstanding MIPR's.

U.S. European Command Comments

Final Report Reference

Redirected
and
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as Recom-
mendations
2.a. and 2.b.

Renumbered
as Recom-
mendations
3.a. and 3.b.

Renumbered
as Recom-
mendations
4.a and 4.b.

ECJ2

SUBJECT: Quick-Reaction Report on the Audit of DOD Components' Use of the National Photographic Interpretation Center (NPIC) Contract to Procure Computer Equipment (Project No. 5RE-0049.00)

- c. Re Page 14, 1.c: The primary personnel, responsible for previous orders are no longer in the Command.
 - d. Re Page 14, 1.d and e: Due to incomplete records, it may not be possible to reconstruct all purchases made against the NPIC contracts over the past several years. Given the short suspense, relocation of records to the UK, and other pressing mission contingencies, it is not possible to reconstruct even a partial list at this time. We will, however, respond to the request within the next 60 days.
 - e. Re Page 15, 2.a and 2.b: Concur.
 - f. Re Page 15, 3.a and 3.b: Whole heartedly concur for all the reasons stated in paragraph 3 above.
5. The ECJ2 point of contact on this response is Mr. Dave Litteral, (DSN) 430-7432.


RICHARD F. KELLER
LTG, USA
Chief of Staff

U.S. Pacific Command Comments



COMMANDER IN CHIEF, U.S. PACIFIC COMMAND
(USCINCPAC)
CAMP H.M. SMITH, HAWAII 96861-4028

J053
7300
Ser/ 0686
AUG 29 1995

To: Department of Defense Inspector General
Assistant Inspector General for Audits
(Attn: Ms. Mary Lu Ugone, Audit Program Director)
400 Army Navy Drive, Arlington, Virginia 22202-2884

Subj: USCINCPAC RESPONSE TO THE DEPARTMENT OF DEFENSE INSPECTOR
GENERAL (DODIG) REQUEST FOR COMMENTS TO THE QUICK-REACTION
REPORT ON THE AUDIT OF DOD COMPONENTS USE OF THE NATIONAL
PHOTOGRAPHIC INTERPRETATION CENTER CONTRACT TO PURCHASE
COMPUTER EQUIPMENT (PROJECT 5RE-0049.00)

Ref: (a) DODIG Memorandum of 28 Jul 95

1. Reference (a) provided USCINCPAC with the quick-reaction report on the audit of DOD Components Use of the National Photographic Interpretation Center (NPIC) contract to Purchase Computer Equipment for review and comments.

2. The USCINCPAC Command, Control, Communications Systems Directorate (J6) submitted the following comments to the DODIG quick-reaction report:

a. Reference (a) states that DoD components placed Economy Act orders against the subject NPIC contract with no assurance that they were receiving a "best value" for DoD. It specifically discusses provisions in the contract that provided NPIC with rebates based on prompt payments and total amounts purchased against the contract. The report suggests that information about those provisions were withheld from the DoD components by NPIC and that NPIC received benefits of \$14.7 million (\$11 million in hardware and \$3.7 million in discounts for prompt payments) since 1988 from Sun Microsystems as a direct result of orders by the DoD.

b. The DODIG report states that 13 orders were placed by USPACOM for a total amount of \$5.3 million, showing 6 orders placed in 1994 and 1 order placed in 1995. The order placed in 1995 is the only one the USCINCPAC action officer (Mr. Beebe) was familiar with so all comments will be based on that order, listed on page 35 of reference (a) as Economy Act Order Number 318 dated 5/15/95 in the amount of \$292,534.

c. Order number 318 was an order for a Sun 1000 server and 10 Sun workstations purchased with Command and Control Initiative Program (C2IP) funds for use on the USCINCPAC Global Command and Control System (GCCS). This order was originally going to be purchased off of another existing contract administered by NATO. The NPIC contract off which it was purchased was for a minimum purchase of \$100,000. After further investigation, the NPIC

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Subj: USCINCPAC RESPONSE TO THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL (DODIG) REQUEST FOR COMMENTS TO THE QUICK-REACTION REPORT ON THE AUDIT OF DOD COMPONENTS USE OF THE NATIONAL PHOTOGRAPHIC INTERPRETATION CENTER CONTRACT TO PURCHASE COMPUTER EQUIPMENT (PROJECT 5RE-0049.00)

contract was discovered which offers a 35% discount for Nunn-Warner exempt systems. This calculates to a roughly estimated savings of \$58,500 by switching to the NPIC contract for this order. After checking with Defense Information Systems Agency (DISA) Washington, D.C., USCINCPAC J6 (Mr. Beebe) discovered that DISA was ordering all of the GCCS Sun hardware from the NPIC contract and Lieutenant General Edmonds had signed a letter designating GCCS as a Nunn-Warner exempt system. After further checking with the Honolulu office of Sun Microsystems, it was determined that the NPIC contract was, by far, the best available contract for ordering Sun hardware and placing this order through the NPIC contract was in the best interest of USCINCPAC and the DoD. Even if NPIC received a 1% rebate for prompt payment against this order, it would have been less than \$3,000. The above mentioned savings of \$58,500 over the NATO contract more than justified the decision to use the NPIC contract.

d. There appears to be a refund due USCINCPAC. The USCINCPAC order was processed through NPIC, USCINCPAC J6 reviewed a copy of the delivery schedule from Sun Microsystems. Their figures showed a total cost for the order of \$282,061 which is \$10,473 less than the amount MIPR to NPIC. USCINCPAC J6 called NPIC about the discrepancy and was told they would MIPR the difference back to USCINCPAC once they received the refund from Sun Microsystems. The USCINCPAC Comptroller (J05) financial records indicated \$292,534 was obligated and billed. Also, it is true that USCINCPAC J6 was unaware of the provisions in the NPIC contract that provide rebates and discounts to NPIC.

e. USCINCPAC J6 recommends that DISA or another DoD agency establish a contract with Sun Microsystems similar to the NPIC contract that allows the DoD to receive the benefits of the rebates and discounts NPIC is currently receiving. Further recommend that Economy Act orders still be allowed by DoD components against the NPIC contract until DoD can establish a contract, because the NPIC contract currently provides the best discounts available.

3. DODIG questions or comments on the USCINCPAC response can be directed to the J6 action officer Mr. Dale E. Beebe (J6611) at commercial (808) 477-1086 or DSN 477-1086.

4. The USCINCPAC point of contact is Mr. Wayson Lee at DSN (315) 477-1182 or commercial (808) 477-1182 or fax 477-0535.



T. A. BUNKER
Captain, SC, U.S. Navy
Comptroller

U.S. Atlantic Command Comments



DEPARTMENT OF DEFENSE

COMMANDER IN CHIEF
U. S. ATLANTIC COMMAND
1000 MITCHELL AVENUE SUITE 200
FORT BELLEVILLE, VA 22061-5400

J00IG
Ser 5U9547
August 30, 1995

MEMORANDUM FOR: DoD IG (Operational Support Directorate)

Subject: USACOM Comments on the DoD IG Draft Audit Report, "Quick-Reaction Report on Audit of DoD Components Use of the National Photographic Interpretation Center Contract (NPIC) to Procure Computer Equipment." (Project No. 5RE-0049)

1. USACOM concurs with the findings of the report.
2. The USACOM Intelligence Directorate and the Atlantic Intelligence Command (AIC) were the only elements of the USACOM Staff that used the CIA NPIC contract to purchase SUN hardware. The Intelligence Directorate learned about the CIA NPIC contract with SUN through the local SUN representative who indicated that, at that time, the CIA contract offered the best government pricing. Verification was made that the CIA NPIC pricing was less than GSA.
3. The USACOM Intelligence Directorate and AIC now use a DOD/DIA contract with SUN that has pricing equal to that of CIA. This contract was awarded to SUN on 29 Sep 92.
4. Point of Contact at USACOM is Mr. Russ Myers, J29, at (804) 322-7304.

A handwritten signature in black ink, appearing to read "T. M. Pratt".

THOMAS M. PRATT
Colonel, U. S. Air Force
Inspector General

U.S. Central Command Comments



UNITED STATES CENTRAL COMMAND
OFFICE OF THE COMMANDER IN CHIEF
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

5 Aug 1995

MEMORANDUM FOR DEPARTMENT OF DEFENSE ASSISTANT INSPECTOR GENERAL
AUDITING, 400 ARMY NAVY DRIVE, ARLINGTON,
VIRGINIA 22202-2884

SUBJECT: DoDIG Draft Quick-Reaction Report on Audit of DoD
Components' Use of the National Photographic Interpretation
Center Contract to Procure Computer Equipment (Project No. 5RE-
0049.00)

1. Reference: DoDIG Memo of 28 July 1995.

2. This is in reply to your 28 July 1995 memorandum requesting
comments on the findings and recommendations made in the subject
report. Specific comments are provided below on Recommendations
for Corrective Action:

a. Reference page 14, 1a: Stop issuing Economy Act orders
for computer equipment against NPIC contracts with Sun
Microsystems. I concur with this recommendation for corrective
action. A review of all FY95 contracting requirements indicates
that USCENTCOM has issued no Economy Act orders against the NPIC
contract this fiscal year. We shall also cease placing any
future orders against the NPIC contract. Action is complete.

b. Reference page 14, 1b: Cancel unfilled orders placed
against NPIC contracts. I concur with this recommendation for
corrective action. Upon review of all FY94 contract requirements
packages, only four Economy Act orders were issued against the
NPIC contract. One of the four was cancelled. Sun Microsystems
Computer equipment from the remaining three Economy Act orders
has been delivered. No such orders were/will be placed in FY95.
Therefore, no unfilled orders remain to be cancelled. Action is
complete.

c. Reference page 14, 1c: Review performance of officials
who have not complied with Economy Act statutory and regulatory
requirements and take appropriate action. I concur with this
recommendation for corrective action. All USCENTCOM officials
associated with review/approval of Economy Act orders have fully
complied with all statutory and regulatory requirements. This
was evidenced in comments of the Draft Inspection Report
following the DoDIG inspection of U.S. Central Command from July-
September 1994. This report concluded that USCENTCOM has
adequate internal management controls for contract management.
Specific DoDIG comments relating to Economy Act orders were:

"We concluded that the USCENCOM has adequate processes in place to identify contracting requirements, to ensure requirements are justified and reviewed, and to fill the requirements through base contracting offices. The same process is also used to review and approve Military Interdepartmental Procurement Requests and Economy Act Orders, and we found that all that were processed during the year prior to our inspection were processed in accordance with applicable rules and regulations."

Consequently, this action is complete.

d. Reference page 14, 1d: Determine actual cost of computer equipment purchased, including rebates from Sun Microsystems Federal, Inc., to NPIC including rebates for volume and prompt payment discounts. I nonconcur with this recommendation for corrective action. We believe NPIC is in the best position to accomplish this pricing exercise and determine true cost of equipment previously purchased.

e. Reference page 14, 1e: Obtain a refund from the NPIC for benefits accrued because of the DoD Components' orders. I nonconcur with this recommendation for corrective action. Consistent with response 2d above, it is our position that NPIC should determine amounts of any applicable rebates and initiate action to reimburse each Component via Comptroller channels.

3. I appreciate the opportunity to comment on the subject draft report. If your staff requires additional information, please have them contact Maj Thomas Walker, CCJ4/7-PC, DSN 968-5821/5822.



J. H. BINFORD PEAY III
General, USA
Commander in Chief

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and
renumbered
as Recommendation
2.a.

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and
renumbered
as Recommendation
2.b.

U.S. Special Operations Command Comments



UNITED STATES SPECIAL OPERATIONS COMMAND
OFFICE OF THE DEPUTY COMMANDER IN CHIEF AND CHIEF OF STAFF
7701 TAMPA POINT BLVD.
MACDILL AIR FORCE BASE, FLORIDA 33621-5323

30 August 1995

MEMORANDUM FOR: INSPECTOR GENERAL, DEPARTMENT OF DEFENSE,
OIG-AUD (ATTN: MARY LU UGONE), 400 ARMY NAVY DRIVE (ROOM 801),
ARLINGTON, VIRGINIA 22202-2884

SUBJECT: Quick-Reaction Report on Audit of DOD Components Use of
the National Photographic Interpretation Center (NPIC) Contract
to Procure Computer Equipment (Project No. SRE-0049.00), 28 July
1995

1. The purpose of this correspondence is to respond to subject draft report of findings and recommendations. USSOCOM has not purchased equipment from this contract since 1994. We will, however, solicit reimbursement from NPIC.

2. Prior to ordering from the NPIC contract, USSOCOM personnel thoroughly researched all available contract vehicles to obtain the required equipment. Time did not permit exploration of negotiation for a new contract. If there had been time, it is unlikely that USSOCOM would have benefited from such rebates because of the low dollar value requirements. Therefore, it is our opinion that the best value for the command was obtained.

3. Please contact Ms Sherri Perkins, (813) 828-2302 if you have any questions or need additional information.

A handwritten signature in dark ink, appearing to read "Irve C. Le Moyne".

IRVE C. LE MOYNE
Rear Admiral, U.S. Navy
Deputy Commander in Chief
and Chief of Staff

U.S. Transportation Command Comments



UNITED STATES TRANSPORTATION COMMAND
808 SCOTT DR
SCOTT AIR FORCE BASE IL 62225-6367

24 August 1995

MEMORANDUM FOR DOD INSPECTOR GENERAL (DIRECTOR, READINESS AND
OPERATIONAL SUPPORT DIRECTORATE)

FROM: TCDC

SUBJECT: Audit Report on Quick-Reaction Report on the Audit of
DoD Components' Use of the National Photographic
Interpretation Center (NPIC) Contract to Procure
Computer Equipment (Project No. 5RE-0049.00)

1. This is in reply to your 28 Jul 95 memorandum requesting comments on the findings and recommendations made in subject audit report.
2. We generally concur with the procedural recommendations related to USTRANSCOM contained in the report. However, we nonconcur with those recommendations relative to having commands obtain refunds from NPIC and have attached our comments. We appreciate the opportunity to provide input to the draft report.

A handwritten signature in black ink, appearing to read "Kenneth R. Wykle".

KENNETH R. WYKLE
Lieutenant General, U.S. Army
Deputy Commander in Chief

Attachment:
Management Comments

U.S. Transportation Command Comments

Final Report
Reference

Recommendation:

"1. We recommend that the Under Secretary of Defense for Acquisition and Technology; Assistant Secretary of Defense (Health Affairs); Commander in Chief, U.S. European Command; Commander in Chief, U.S. Pacific Command; Commander in Chief, U. S. Atlantic Command; Commander in Chief, U.S. Central Command; Commander in Chief, U.S. Special Operations Command; Commander in Chief, U.S. Transportation Command; Commander in Chief, U.S. Strategic Command; Assistant Secretary of the Army (Research, Development and Acquisition); Assistant Secretary of the Navy (Research, Development and Acquisition); Assistant Secretary of the Air Force (Acquisition); Director, Defense Information Systems Agency; Director, Defense Intelligence Agency; Director, Defense Logistics Agency; Director, Defense Mapping Agency; Director, Defense Nuclear Agency; Director, Joint Staff:

a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

b. Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

d. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

e. Obtain a refund from the National Photographic Interpretation Center for benefits accrued because of the DoD Components' orders."

Response:

Concur in part, nonconcur in part. USTRANSCOM, as a result of earlier DoD/IG investigations took steps in 1993 to control the use of Economy Act Purchases by the Command. The Military Interdepartmental Purchase Request (MIPR) referenced in the report attributable to USTRANSCOM is in the amount of \$135,702 and based on delivery orders dated 31 Aug 92 and 8 Sep 92. The description on both delivery orders is "SUN Equipment for the Joint Staff". The date of the MIPR is prior to USTRANSCOM taking corrective measures in regards to Economy Act purchases. The Memorandum of Understanding with the National Photographic Interpretation Center (NPIC) for direct ordering from the Sun Microsystems Contract referenced in Appendix D was cancelled last month. The MOU was signed by contracting officers assigned to a USTRANSCOM component, utilizing the USTRANSCOM name but without coordination with

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USTRANSCOM. Outstanding orders, if any, issued pursuant to that MOU will be cancelled. USTRANSCOM concurs in the recommendation that all unfilled Economy Act orders placed against the NPIC contract should be cancelled and no further orders made. USTRANSCOM concurs with the review of the performance of officials involved in the process of placing Economy Act orders with other agencies even though USTRANSCOM will not initiate any new reviews relative to the 1992 MIPR. We believe our prior actions adequately addressed this issue. USTRANSCOM does not concur with the proposal that each ordering activity pursue a separate action to obtain a refund to the Miscellaneous Receipts Account of the Treasury from NPIC. Such a proposal involves much duplication of effort and, for agencies with small amounts in controversy, is not cost effective. Recommend DoD/IG prepare a letter for signature by SECDEF, to the Director of the CIA, demanding an internal audit be made and refunds of unexpired current or multi-year funds be made to DoD ordering units with the remaining amounts constituting an augmentation of appropriations being returned to the Treasury. If the information was intentionally withheld from DISA in April 1995 as indicated on page 7 of the draft audit, involvement of the Department of Justice may be appropriate. Also recommend DoD pursue a debarment action against Sun Microsystems if they knew or should have known that the rebate actions to an agency other than the ordering agency were improper. USTRANSCOM agrees any DoD misuse of Economy Act orders must be stopped. However, the Economy Act is a very effective tool saving the U.S. millions of dollars in procurement costs when utilized properly. The draft audit discloses active concealment of information by NPIC, another federal agency subject to the Federal Acquisition Regulation. It is difficult to envision how the conclusion is reached that Economy Act orders are misused DoD-wide.

Defense Information Systems Agency Comments



DEFENSE INFORMATION SYSTEMS AGENCY
701 S. COURT HOUSE ROAD
ARLINGTON, VIRGINIA 22204-2100



IN REPLY
REFER TO:

Inspector General

06 SEP 1995

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
ATTN: Director, Readiness and Operational Support

SUBJECT: Response to the DODIG Quick-Reaction Audit Report
DOD Components' Use of the National Photographic
Interpretation Center Contract to Procure Computer
Equipment (Project No. 5RE-0049.00)

Reference: DODIG Draft Report, subject as above, 28 Jul 95

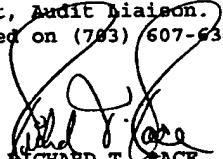
1. We are providing management comments to the subject draft report in accordance with the reference. DISA concurs with the recommendations to stop issuing Economy Act orders against the NPIC contract and to review the performance of officials. We partially concur with the recommendations to determine the amount of rebates, allowances and discounts and to obtain a refund. We nonconcur with the recommendation to cancel unfilled orders because of the delay it would cause in implementing several mission essential systems and because of termination fees and high maintenance costs.

2. Although we agree that if rebates were accrued to NPIC, then the actual amount should be refunded to DOD. However, DISA cannot determine this amount without having complete knowledge of the contract. It would be more appropriate for one DOD level component to interface with NPIC on behalf of all the DOD components who ordered from the two contracts.

3. Our detailed comments are enclosed. The point of contact for this action is Ms. Sandra J. Leicht, Audit Liaison. If you have questions, Ms. Leicht can be reached on (703) 607-6316.

FOR THE DIRECTOR:

1 Enclosure a/s


RICHARD T. PACE
Inspector General

Quality Information for a Strong Defense

**MANAGEMENT COMMENTS TO THE DODIG DRAFT QUICK-REACTION REPORT ON
THE AUDIT OF DOD COMPONENTS' USE OF THE NATIONAL PHOTOGRAPHIC
INTERPRETATION CENTER (NPIC) CONTRACT TO PROCURE COMPUTER
EQUIPMENT (PROJECT No. 5RE-0049.00)**

RECOMMENDATION 1: The DODIG recommended that the Under Secretary of Defense for Acquisition and Technology; Assistant Secretary of Defense (Health Affairs); Commander in Chief, U.S. European Command; Commander in Chief, U.S. Pacific Command; Commander in Chief, U.S. Atlantic Command; Commander in Chief, U.S. Central Command; Commander in Chief, U.S. Special Operations Command; Commander in Chief, U.S. Transportation Command; Commander in Chief, U.S. Strategic Command; Assistant Secretary of the Army (Research, Development and Acquisition); Assistant Secretary of the Navy (Research, Development and Acquisition); Assistant Secretary of the Air Force (Acquisition); Director, Defense Information Systems Agency; Director, Defense Intelligence Agency; Director, Defense Logistics Agency; Director, Defense Mapping Agency; Director, Defense Nuclear Agency; Director, Joint Staff:

a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

DISA RESPONSE: Concur. DISA stopped issuing new orders against the NPIC contract since June 1995. After the DoDIG alerted DISA of the clause in the NPIC contract which accrues benefits to NPIC as a result of DOD's orders, the Agency immediately issued direction to stop using the NPIC contract.

DISA recognizes that internal processes need to be strengthened to ensure compliance with the requirements of the Economy Act. On 22 August 1995, the Deputy Director for Procurement and Logistics (D4) initiated action to reinforce the designation of the Competition Advocate as the agency approving authority for all Economy Act orders (Attachment 1). The Director, DISA, will sign the policy memorandum which will be distributed to all DISA organizational elements. Further followup is necessary to ensure that this policy is enforced.

On 5 September 1995, the Vice Director, DISA, signed a memorandum stating that the NPIC contract will not be used by the Agency to procure computer equipment (Attachment 2). The

* Omitted from the report because attachment 1 is a draft and has not been finalized.

Defense Information Systems Agency Comments

memorandum will be distributed to all DISA organizational elements.

No new orders will be placed against the NPIC contract. If additional Sun workstations are required, DISA will determine if a "best value" contract exists in DOD or will solicit and award a contract to obtain the equipment.

b. Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

DISA RESPONSE: Nonconcur. As indicated, DISA has stopped issuing new orders against the contracts both directly with the contractor or with NPIC. DISA currently has three unfilled orders which were initiated prior to receiving notification to stop using the NPIC contracts. DISA is currently awaiting delivery of the products under the orders and, for the following reasons, believes the orders should not be canceled:

(1) Computer equipment was ordered off the contract in late May/early June 1995 in support of the Global Command and Control System (GCCS). All equipment has been delivered except for a maximum of \$50,000 worth of back ordered PCMCIA card readers. Canceling the order at this stage would not be cost effective or in the best interest of the Government and would seriously impact the implementation schedule for GCCS.

(2) Computer equipment was ordered off the contract in early August 1995 for the Worldwide On-Line System Replacement (WWOLS-R) effort. DISA initiated this action prior to receiving notification on 30 June 1995 to stop using the NPIC contract. The lag time between DISA's actions (June) and the contractor's (Sun Microsystems) receipt of the order (August) was due to NPIC's processing of the order. Canceling the order would result in a six month delay in implementing WWOLS-R, maintenance costs of over \$2 million, and \$31,000 in termination costs.

(3) Computer equipment was order off the contract in late August 1995 for the Defense Information System Network Integrator (DISN-I) effort. DISA initiated this action prior to receiving notification on 30 June 1995 to stop using the NPIC contract. The lag time between DISA's actions (June) and the contractor's (Sun Microsystems) receipt of the order (August) was

Defense Information Systems Agency Comments

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due to NPIC's processing of the order. Canceling the order would result in a four month delay in implementing DISN-I, termination fees of over \$21,000, and contractual ramifications because the DISN-I is being developed using a firm fixed price contract with GSI. Also, part of the equipment is scheduled for delivery in mid-September 1995.

c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

DISA Response: Concur. DISA will evaluate the performance of its officials regarding the NPIC contract by 31 October 1995. However, DISA would like to state that in relation to the DODIG finding, we take strong exception to the DODIG conclusion that DOD Components relinquished their contracting responsibilities when they placed orders under the NPIC contract. In the case of DISA, our contracting officer specifically inquired as to the provisions of the contract, and performed market inquiries to determine whether the prices stated were fair and reasonable. Considering that DOD was consolidating its requirements with another large buyer of this equipment, the price under the NPIC contract should have been among the best prices available. Considering that the NPIC was an intelligence related activity, the reliance on their assertions by our contracting officers was a reasonable one. The fact that there was a provision for a rebate that was deleted from our copy of the contract places the integrity of NPIC in doubt, not the diligence of DOD Contracting Officers.

d. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment, and

e. Obtain a refund from the National Photographic Interpretation Center for benefits accrued because of the DOD Components' order.

DISA RESPONSE: Concur in Part with Recommendations (d) and (e). Although DISA concurs that if rebates were accrued to NPIC because of DOD's orders, then the actual amount should be refunded to the DOD. However, DISA cannot determine the amount of rebates, allowances or prompt payment discounts accrued to

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Defense Information Systems Agency Comments

Final Report
Reference

NPIC for DISA's purchases without having complete knowledge of the contract. As stated in the audit report, when the DISA contracting officer inquired about the missing portion of the NPIC contract, the NPIC contracting officer assured the DISA official that the deleted information would not have any effect on the Economy Act orders issued by DISA. To determine the amount of refund, if any, DISA would have to rely on the NPIC contracting officer for assistance.

DISA relied on the representations of NPIC and believed they were entering into a contract in good faith. It would be more appropriate for one DOD level component to interface with NPIC on behalf of all the DOD components who ordered from the two contracts. A DOD level component would be in a better position to negotiate with NPIC than a single Defense agency, Military department or Commander in Chief thus ensuring unity.

RECOMMENDATION 3: The DODIG recommended that the Director, DISA, determine whether existing DOD contracts with Sun Microsystems Federal, Incorporated, will provide the best value for the DOD or, the Director, DISA, solicit and award a contract to obtain Sun Microsystems Federal, Incorporated, computer equipment to ensure the best value for DOD.

DISA RESPONSE: Concur. The DISA contracting office will either utilize existing DOD contracts which provide the best value to the Government or will solicit and award a contract for additional requirements for Sun workstations to assure competitive pricing.

Renumbered
as Recommendations
4.a. and 4.b.

Defense Information Systems Agency Comments



DEFENSE INFORMATION SYSTEMS AGENCY

701 S. COURT HOUSE ROAD
ARLINGTON, VIRGINIA 22204-2100



SECRET
NOFORN

Procurement and Logistics (D4)

5 September 1995

MEMORANDUM FOR DISTRIBUTION

SUBJECT: National Photographic Interpretation Center
(NPIC) Contract

To confirm guidance given 30 June 1995, it is directed that you
cease placing any orders against NPIC Contract 95-K216600-000
with Sun Microsystems.


DAVID J. KELLEY
Major General, USA
Vice Director

Quality Information for a Strong Defense

Defense Information Systems Agency Comments

Distribution:

Director (D)
Vice Director (DV)
Command Sergeant Major (D/SEA)
Chief of Staff (COS)
Corporate Board Secretariat (DB)
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Inspector General
Chief Information Officer
Small and Disadvantaged Business Utilization (SADBU)
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Office of Equal Employment Opportunity and Cultural
Diversity (EEO&CD)
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Deputy Director for Personnel and Manpower (D1)
Deputy Director for C4 and Intelligence Programs (D2)
Deputy Director for Operations (D3)
Deputy Director for Procurement and Logistics (D4)
Deputy Director for Strategic Plans and Policy (D5)
Deputy Director for Engineering and Interoperability (D6)
Deputy Director for Enterprise Integration (D7)
Deputy Director for C4I Modeling Simulation and Assessment (D8)
Deputy Manager, National Communications System (NC)
Commander, Joint Interoperability Test Command,
Fort Huachuca, AZ 85613-7020
Commander, Center for Information Systems Security,
5113 Leesburg Pike, Suite 400, Falls Church, VA 22041-3230
Commander, Defense Information Technology Contracting Office,
Scott Air Force Base, IL 62225-5357
Commander, Joint Interoperability and Engineering Organization
Commander, Joint Spectrum Center, Annapolis, MD 21402-5064
Commander, DISA WESTHEM, 152 Barrick Avenue, Ft Ritchie, MD
21719-3201
Commander, DISA EUR, APO AE 09131-4103
Commander, DISA PAC, Wheeler Army Air Field, HI 96854
Commander, DISA SOUTHCOM, Fort Amador, FM 1226, APO AA
34003-5000
Commander, CENT/SOCOM, MacDill Air Force Base, FL 33608
Commander, DISA TRANSCOM, 508 Scott Drive,
Scott Air Force Base, IL 62225-5357
Commander, White House Communications Agency
Chief, DISA ACOM, Norfolk, VA 23511-2488
Chief, DISA FORSCOM, Fort McPherson, GA 30330
Chief, DISA SPACECOM, Peterson Air Force Base, CO 80914-3200

Defense Logistics Agency Comments



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22304-6100



IN REPLY
REFER TO

DDAI

7 September 1995

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING,
DEPARTMENT OF DEFENSE

SUBJECT: *OIG Draft Report on "DoD Components Use of the National Photographic
Interpretation Center Contract to Procure Computer Equipment,"*
(Project No. 5RE-0049)

This is in response to your 28 July 95 request.

1 End


JACQUELINE G. BRYANT
Chief, Internal Review Office

cc:
CA

Defense Logistics Agency Comments

TYPE OF REPORT : Audit

PURPOSE OF INPUT: Initial Position

AUDIT TITLE AND NO: DoD Components Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment (*Project No. SRE 0049.00*)

RECOMMENDATION 1a: Recommend that the Director, Defense Logistics Agency, stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

DLA COMMENTS: Concur with intent however, request that this recommendation be revised to read: "Stop submitting requests to the National Photographic Interpretation Center (NPIC) for the issuance of orders by NPIC against contract 95-K216600-000 with Sun Microsystems Incorporated for computer equipment and services."

The orders for acquiring goods or services from the NPIC contracts are issued only by NPIC. The Contracting Officer is the only one who can actually issue the orders. The Agencies only submit requests for orders. DLA, however, will no longer submit requests to the National Photographic Interpretation Center.

DISPOSITION:

Action is considered complete.

ACTION OFFICER: Ms. Jane Johannsen, CANP, 767-2161, 28 Aug 95

REVIEW: Mr. Patrick McCarthy, CANP, 767-2131, 29 Aug 95

REVIEW: Ms. Arlene Schuchner, CANM, 767-2191, 28 Aug 95

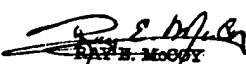
REVIEW: Ms. Sandra King, CANM, 767-2141, 28 Aug 95

REVIEW/APPROVAL: Mr. Thomas Knapp, CAN, 767-3143, 29 Aug 95

COORDINATION: LaVaeda G. Coulter, DDAI, 767-6261, 30 Aug 95

DLA APPROVAL:

SEP 11 1995


RAY E. McCreary
Major General, USA
Principal Deputy Director

TYPE OF REPORT: Audit

PURPOSE OF INPUT: Initial Position

AUDIT TITLE AND NO: DoD Components Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment
(Project No. 5RE 0049.00)

RECOMMENDATION 1.b: Recommend that the Director, Defense Logistics Agency, cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

DLA COMMENTS: Concur with intent, however, request that this recommendation be revised to read: "Review all unfilled orders that have been placed on NPIC contracts 95-K216600-000 and 87-K362300-00 with Sun Microsystems for computer equipment and services and determine what the impact would be for cancellation of any unfilled orders. Pending the results of the review of unfilled orders, cancel those if so warranted and request a deobligation of the funds from NPIC."

Reviews will be made of unfilled orders placed with NPIC and cancelled if so warranted. It might not be in the best interest of DoD to randomly cancel all the unfilled orders. Such an action could impede important programs. A review allows the agencies to think and plan before taking action.

DISPOSITION:

Action is ongoing. Estimated Completion Date: 30 Dec 95

ACTION OFFICER: Ms. Jane Johannsen, CANP, 767-2161, 28 Aug 95

REVIEW: Mr. Patrick McCarthy, CANP, 767-2131, 29 Aug 95

REVIEW: Ms. Arlene Schuchner, CANM, 767-2191, 28 Aug 95

REVIEW: Ms. Sandra King, CANM, 767-2141, 28 Aug 95

REVIEW/APPROVAL: Mr. Thomas Knapp, CAN, 767-3143, 29 Aug 95

COORDINATION: LaVaeda G. Coulter, DDAI, 767-6261, 30 Aug 95

DLA APPROVAL:

SEP 11 1995

RAY E. McCOY
Major General, USA
Principal Deputy Director

Defense Logistics Agency Comments

TYPE OF REPORT : Audit

PURPOSE OF INPUT: Initial Position

AUDIT TITLE AND NO: DoD Components Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment
(Project No. SRE 0049.00)

RECOMMENDATION I.e.: Recommend that the Director, Defense Logistics Agency, review the performance of officials who have not complied with the Economy Act statutory and regulatory and take appropriate action, if necessary.

DLA COMMENTS: Concur in part. A policy has been issued by DLA-AQP in May 1995 providing procedures to be followed on use of the Economy Act. (See Enclosure) DLA is following this policy.

DISPOSITION:

Action is considered complete.

ACTION OFFICER: Ms. Jane Johannsen, CANP, 767-2161, 28 Aug 95

REVIEW: Mr. Patrick McCarthy, CANP, 767-2131, 29 Aug 95

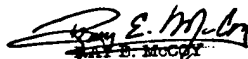
REVIEW: Ms. Arlene Schuchner, CANM, 767-2191, 28 Aug 95

REVIEW: Ms. Sandra King, CANM, 767-2141, 28 Aug 95

REVIEW/APPROVAL: Mr. Thomas Knapp, CAN, 767-3143, 29 Aug 95

COORDINATION: LaVaeda G. Coulter, DDAI, 767-6261, 30 Aug 95 *JS 8/31/95*

DLA APPROVAL:


Paul E. McCoy
Major General, USA
Principal Deputy Director

SEP 11 1995

Defense Logistics Agency Comments

Final Report
Reference

TYPE OF REPORT : Audit

PURPOSE OF INPUT: Initial Position

AUDIT TITLE AND NO: DoD Components Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment
(Project No. SRE 0049.00)

RECOMMENDATION 1.d: Recommend that the Director, Defense Logistics Agency, determine the total cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

DLA COMMENTS: Concur, however, DLA is unable to perform the calculations because the information on the discounts resides with NPIC. Information is required from NPIC in order to perform the calculation on the amount of money owed to DLA by NPIC. Initial attempts to retrieve data from NPIC were unsuccessful.

DISPOSITION:
Action is complete.

Monetary Benefits: Unable to determine
Estimated Realization Date: Unable to determine
Amount Realized: Unable to determine
Date Benefits Realized: Unable to determine

ACTION OFFICER: Ms. Jane Johannsen, CANP, 767-2161, 28 Aug 95
REVIEW: Mr. Patrick McCarthy, CANP, 767-2131, 29 Aug 95
REVIEW: Ms. Arlene Schuchner, CANM, 767-2191, 28 Aug 95
REVIEW: Ms. Sandra King, CANM, 767-2141, 28 Aug 95
REVIEW/APPROVAL: Mr. Thomas Knapp, CAN, 767-3143, 29 Aug 95

COORDINATION: LaVaeda G. Coulter, DDAI, 767-6261, 30 Aug 95

DLA APPROVAL:

SEP 11 1995

[Signature]
Major General, USA
Principal Deputy Director

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Defense Logistics Agency Comments

Final Report
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TYPE OF REPORT : Audit

PURPOSE OF INPUT: Initial Position

AUDIT TITLE AND NO: DoD Components Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment, (Project No. 5RE 0049.00)

RECOMMENDATION 1.e: Recommend that the Director, Defense Logistics Agency, obtain a refund from the National Photographic Interpretation Center for the benefits accrued because of the DoDComponents' orders.

DLA COMMENTS: Concur that a refund should be obtained, however, this is a DoD-wide issue and should be addressed from a higher level.

DISPOSITION:
Action is complete.

ACTION OFFICER: Ms. Jane Johannsen, CANP, 767-2161, 28 Aug 95

REVIEW: Mr. Patrick McCarthy, CANP, 767-2131, 29 Aug 95

REVIEW: Ms. Arlene Schuchner, CANM, 767-2191, 28 Aug 95

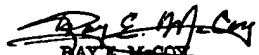
REVIEW: Ms. Sandra King, CANM, 767-2141, 28 Aug 95

REVIEW/APPROVAL: Mr. Thomas Knapp, CAN, 767-3143, 29 Aug 95

COORDINATION: LaVaeda G. Coulter, DDAI, 767-6261, 30 Aug 95 JJ 8/31/95

DLA APPROVAL:

SEP 11 1995


RAY E. MCCOY
Major General, USA
Principal Deputy Director

Defense Mapping Agency Comments



DEFENSE MAPPING AGENCY



29 AUG 1995

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
ATTN: Assistant Inspector General for Auditing

SUBJECT: Quick-Reaction Report on Audit of DoD Components Use of
the National Photographic Interpretation Center Contract
to Procure Computer Equipment (Project No. 5RE-0049.00)

1. Reference DoD(IG) memorandum, 28 July 1995, subject as above.
2. We agree with the draft audit conclusion that NPIC should not illegally augment its appropriations at DoD expense. However, we do not agree with all of the recommendations for corrective action as cited in the draft report.

a. DMA followed all applicable laws, as well as carefully assured reasonable prices, by entering the memorandum of understanding (MOU) with National Photographic Interpretation Center (NPIC) and placing orders under the Sun Microsystems Federal, Inc. (Sun) contract. DMA has checked with all available sources and even without the "rebate" believes that the Sun prices are the best available.

b. Prior to DMA entering a MOU with NPIC in March 1995, a DMA contract specialist reviewed a purported NPIC contract with Sun. Although the DMA contract specialist requested that she be allowed to review the entire contract, the portions relating to the discounts were deleted by NPIC citing security. DMA, therefore, was not aware that NPIC was receiving a rebate under the contract.

c. The MOU between NPIC and DMA stated that DMA would sign the orders under the Sun contract. NPIC delegated the ordering, funding and payment function to DMA. Under this circumstance, it is difficult to apply the Economy Act implication, except for NPIC's cost of entering and administering the contract. The MOU did not include any service fees to be paid NPIC for contracting/acquisition costs. Therefore, DMA does not agree that the transaction it entered with NPIC necessarily is an Economy Act transaction.

3. DMA's comments pertaining to the report recommendations in paragraph 1 under Recommendations for Corrective Action are:

a. Recommendation 1.a. Stop issuing Economy Act orders against National Photographic Interpretation Center contract 95-K216600-000 for Sun Microsystems Federal, Incorporated, computer equipment.

DAVID R. DE
WASHINGTON

4400 BANGOR ROAD
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12010 SUNSHINE VALLEY DRIVE
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HEADQUARTERS
1615 LEE HIGHWAY
FARMAX, VIRGINIA 22031-0107

3200 E. SECOND STREET
ST. LOUIS, MISSOURI 63110-3300

5001 TADOR AVENUE
PHILADELPHIA, PENNSYLVANIA 19130-0000

Defense Mapping Agency Comments

Final Report
Reference

DMA Comment. Limited concurrence. DMA believes future orders should not be placed under the Sun contract until we determine whether rebates are due to DMA. DMA will immediately discontinue placing orders under the NPIC contract until the rebate issue is resolved. However, as stated above, we do not consider such orders to be placed under the Economy Act.

b. Recommendation 1.b. Cancel all unfilled orders that have been placed on the National Photographic Interpretation Center contracts 95-K216600-000 and 87-K362300-000 for Sun Microsystems Federal, Incorporated, computer equipment and obtain a return of funds.

DMA Comment. Nonconcur. DMA has \$2.7 million of orders outstanding. The equipment under order is essential to DMA's mission. It is used in direct support of generation of MC&G data for DoD war fighters. DMA will let its current orders stand because to do otherwise would interject unacceptable delays in the procurement of equipment. Moreover, to cancel existing orders is tantamount to a concurrence as to Economy Act transactions. Our position on this has been stated above.

c. Recommendation 1.c. Review the performance of officials who have not complied with the Economy Act statutory and regulatory requirements and take appropriate action, if necessary.

DMA Comment. Concur. Appropriate action should be taken against officials who have not complied with the Economy Act requirements. However, we believe no action is required because we did not violate the Act.

d. Recommendation 1.d. Determine the actual cost of the computer equipment, including the rebates from Sun Microsystems Federal, Incorporated, to the National Photographic Interpretation Center, including, but not limited to, the rebates for annual credit and contractor allowance and the discounts for prompt payment.

DMA Comment. Concur.

e. Recommendation 1.e. Obtain a refund from the National Photographic Interpretation Center for benefits accrued because of the DoD Components' orders.

DMA Comment. Concur. However, NPIC may claim a contracting/acquisition fee for the services provided to DoD/DMA. We will work with NPIC to resolve this issue.

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4. If further information is required, please contact
Ms. Jo Ann Holston, HQ DMA(CMM), (703) 285-9216.

FOR THE DIRECTOR:

Cynthia K. Bogner
CYNTHIA K. BOGNER
Comptroller

Naval Computer and Telecommunications Station Comments



DEPARTMENT OF THE NAVY
NAVAL COMPUTER AND TELECOMMUNICATIONS STATION NEW ORLEANS
4400 DAUPHINE STREET
NEW ORLEANS, LA 70145-7700

7500
Ser N82/343
28 AUG 95

From: Commanding Officer, Naval Computer and Telecommunications Station New Orleans
To: Assistant Inspector General for Auditing, Department of Defense

Subj: AUDIT OF DOD COMPONENTS' USE OF THE NATIONAL PHOTOGRAPHIC
INTERPRETATION CENTER (NPIC) CONTRACT TO PROCURE COMPUTER
EQUIPMENT

Ref: (a) PHONCON DODIG ITMD Ms. C. Miggins/NAVCOMTELSTA New Orleans (N82)
Mr. J. Meyer of 2 Aug 95
(b) Draft Quick-Reaction Report on the Audit of DoD Components' Use of the NPIC
Contract to Procure Computer Equipment of 28 Jul 95

Encl: (1) NAVCOMTELSTA New Orleans Memorandum (N82) for the Record of 17 Aug 95

1. Confirming reference (a), enclosure (1) is forwarded to further assist you with the investigation.

2. My point of contact for this matter is Mr. John Meyer, Division Director (N82). He can be reached at commercial (504) 678-6466 or DSN 678-6466.

A handwritten signature in cursive script, appearing to read "R. C. Long".
R. C. LONG

**NAVCOMTELSTA NEW ORLEANS (N82) MEMORANDUM FOR THE RECORD
OF 17 AUGUST 1995**

From: N82

Subj: DODIG INVESTIGATION INTO NPIC CONTRACTS

Ref: (a) Program Director, DODIG Information and Technology Management Division
memo of 26 May 95
(b) NAVCOMTELSTA New Orleans ltr 7502 Ser N8/235 of 19 Jun 95
(c) PHONCON DODIG ITMD Ms. C. Miggins/NAVCOMTELSTA New Orleans (N82)
Mr. J. Meyer of 2 Aug 95
(d) NAVCOMPT Manual, Volume III, Section 5, Paragraph 035402

Encl: (1) DODIG Fax of 2 Aug 95; Extract of Draft Report on Results of DODIG Investigation
into DoD use of the NPIC Contract

1. With reference (a), we were notified that a DODIG investigation was underway on the DoD components' use of the Central Intelligence Agency's (CIA's) NPIC Contract. Reference (a) also requested that all information relating to use of the NPIC Contract be gathered and available for an investigative meeting to be held in New Orleans at a later date.
2. Subsequent phoncons revealed that the primary purpose of the investigation was a followon to other investigations relating to DoD use of Economy Act (EA) Determination and Findings (D&Fs). After identifying what information was available, the DODIG decided to cancel the visit to New Orleans in lieu of the material submitted in reference (b). Reference (b) also pointed out that EA D&Fs are now being approved by Naval Supply Systems Command (NAVSUP) via Financial Information Service Centers (FISCs).
3. With reference (c), I was notified that enclosure (1) was in route. During reference (c), I was notified that the results of the investigation were in draft form and that the final report was due to be signed within 30 days. This investigation was in response to Section 844 abuses in using the EA to avoid competition and to inappropriately utilize expiring funds. The final report is designed to be a "quick reaction report for a stop action" and that followon phases would continue, addressing specific violations.
4. Prior to faxing enclosure (1), the DODIG point of contact, Ms. Miggins, asked if NAVCOMTELSTA New Orleans was still accepting expiring funds from other DoD agencies. My response was consistent with similar questions asked during the initial inquiry. In summary, as a DBOF activity, we may accept funding for projects that carry over FYs if the project tasking is initiated prior to the expiration of the funding (reference (d) is germane). Summarizing the findings of the initial audit relative to NAVCOMTELSTA New Orleans, Ms. Miggins stated that NAVCOMTELSTA New Orleans' only irregularity was the acceptance of a \$860K MIPR from the Air Force Materials Command (AFMC) on the last day of the FY which was used to generate a MIPR in January of the following year; the EA that was signed by AFMC was valid only for the FY in which it was signed. Ms. Miggins said that the DODIG may return to further investigate this matter.

Encl (1)

5. After reading enclosure (1), I have two comments. First, at no time did I identify that Economy Act orders were sometimes used to obligate expiring funds; the investigators used the information contained in reference (b) to draw that conclusion. The inference in the enclosure (1) statement is that we made a conscious decision to issue an EA to obligate expiring funds; that is not the case - not until reference (c) did I or anyone else at NAVCOMTELSTA New Orleans know that EAs were valid only for current year funds. Second, although the AFMC funding document stood alone, the activity performed by NAVCOMTELSTA New Orleans was not limited in focus or scope to AFMC. The funding document in question was one of many funding documents received over a period of a year on a multi-year initiative to assist several commands either at or closely linked to the Wright Patterson Air Force Base with information technology enhancement. We often receive multiple funding documents for work with large customer projects and, for the sake of simplicity in tracking, utilize the funding documents for like activity; e.g., one FD will be strictly for hardware and software acquisitions where another FD will be used for application development and project management labor.


J. MEYER

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NATIONAL PHOTOGRAPHIC INTERPRETATION CENTER

NPIC-D-219/95
12: 8 AUG 1995

Ms. Elenore Hill
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202-2884

Dear Ms. Hill:

This letter responds to the Quick-Reaction Report on the Audit of DOD Components' Use of the National Photographic Interpretation Center Contract to Procure Computer Equipment, Project No. 5RE-0049.00, dated 28 July 1995, a report which recommends that the Department of Defense (DOD) stop further Economy Act procurements under the National Photographic Interpretation Center's (NPIC) Sun Microsystems (SUN) contract.

The DOD IG's recommendation was based on three principle findings: a. DOD may not have gotten the "best value" on equipment purchases; b. NPIC augmented its funds with \$3.7 million in prompt payment discounts; and c. NPIC also augmented its funds with \$11 million in equipment rebates from SUN that were not returned to DOD. We have reviewed the draft audit report and disagree with those findings as we understand them.

a. The audit report claims to have no assurance that the Economy Act orders placed on the NPIC SUN contracts since 1988 represent a "best value" for DOD.

We disagree. The DOD IG audit omitted the CIA's Inspector General's report, dated 11 May 95, that concluded the NPIC's SUN contract prices and terms did appear advantageous when compared to other government contracts. The DOD IG audit cited on page 10, under "DOD Contracting Expertise," that since 1988, DOD organizations had placed more than 1,350 direct contract orders with SUN. We believe a "best value" determination can be made by comparing this data to the 1,177 Economy Act orders that were placed with the NPIC SUN contract. (We also find it noteworthy that an article in the 17 July 1995 edition of "Government Computer News" stated that the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD/C3I) was not pleased with DOD pricing of its personal computer contracts and believed that the NPIC contract with SUN, "the vehicle that the Defense Information Systems Agency (DISA) used to buy all those SUNs, should serve as a model for DOD personal computer contracts.")

b. The audit report states that NPIC received a one percent discount from SUN for prompt payments. If NPIC paid the invoices within the required time, NPIC would have saved \$3.7 million in payments on the DOD Economy Act orders of \$365.3 million, but

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did not pass the discounts on to DOD. Therefore, DOD augmented NPIC funds via the discounts.

We disagree. NPIC and CIA did not augment their appropriations with prompt payment discounts derived from DOD funds. The NPIC SUN contract provided for a one percent prompt payment discount and NPIC attempted to obtain this discount, even to the point of authorizing overtime for the payment officer. It has always been NPIC's policy to return unliquidated obligations, including prompt pay discounts, to the originating government agency. If NPIC had been aware of a concern regarding disposition of the DOD prompt payment discounts, or any unliquidated obligations, copies of NPIC's Finance Division records would have been provided to DOD IG. These records clearly document that unliquidated DOD funds have been returned to DOD on a routine basis by the Director of Liaison, OFL/DA/CIA.

c. The audit report states that NPIC also augmented its funds with an estimated \$11 million in equipment rebates from SUN on DOD purchases that were not passed on to DOD.

The audit report has omitted the fact that NPIC did not solicit or receive any reimbursement for our administrative costs as provided for under the Economy Act. Both NPIC and CIA, as members of the Intelligence Community (IC), have traditionally not requested reimbursement of costs attributed to supporting other IC members. It is our understanding that DOD routinely adds a five percent surcharge to Economy Act requests they receive to recover their administrative costs. We are willing to consider such a surcharge to offset the significant cost of NPIC and CIA resources required to process and administer DOD orders in exchange for consideration of applicable rebates.

In summary, NPIC has routinely contracted with SUN to acquire high-end workstations for IC members. The contracts were awarded to SUN in accordance with CIA procurement policies and applicable statutory requirements. NPIC's contracts with SUN have been regularly reviewed by both CIA Acquisition Management and Procurement Law Divisions to ensure compliance with both CIA and statutory requirements. The CIA IG has reviewed the NPIC SUN contract for adequacy of competition, prompt payment discounts, and effectiveness of contract administration.

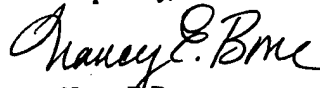
NPIC believes it has provided significant price savings, administrative cost avoidance, and benefit to a large number of DOD components within the Intelligence Community over the past eight years with its SUN contract. NPIC, the SUN Contracting Officer, and the Associate Deputy Director for Acquisition would welcome the opportunity to meet with you or your representatives to resolve these considerable differences.

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Questions regarding this matter may be addressed to either of the undersigned.

Respectfully,



Nancy E. Bone
Director



Virginia E. Durgin
Associate Deputy Director for
Acquisition/OFL

cc: Assistant Secretary of Defense (Command, Control, Communications, and
Intelligence), Director of Defense Procurement

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INTERNET DOCUMENT INFORMATION FORM

A . Report Title: DOD Use of Economy Act Orders Issued to a Central Intelligence Agency Component

B. DATE Report Downloaded From the Internet: 12/20/99

C. Report's Point of Contact: (Name, Organization, Address, Office Symbol, & Ph #):
OAIG-AUD (ATTN: AFTS Audit Suggestions)
Inspector General, Department of Defense
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